

# LIMOUSINES FROM CANADA

Determination of the Commission in  
Investigation No. 701-TA-300  
(Preliminary) Under the Tariff Act  
of 1930, Together With the  
Information Obtained in the  
Investigation

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Determination of the Commission in  
Investigation No. 731-TA-438  
(Preliminary) Under the Tariff Act  
of 1930, Together With the  
Information Obtained in the  
Investigation

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**COMMISSIONERS**

**Anne E. Brunsdale, Chairman**  
**Ronald A. Cass, Vice Chairman**  
**Alfred E. Eckes**  
**Seeley G. Lodwick**  
**David B. Rohr**  
**Don E. Newquist**

*Staff assigned:*

**Mary Trimble, Office of Investigations**  
**Michael Hagey, Office of Industries**  
**Howard Gooley, Office of Economics**  
**James Stewart, Office of Investigations**  
**Craig McKee, Office of the General Counsel**  
  
**Robert Carpenter, Supervisory Investigator**

**Address all communications to**  
**Kenneth R. Mason, Secretary to the Commission**  
**United States International Trade Commission**  
**Washington, DC 20436**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-300 (Preliminary) and 731-TA-438 (Preliminary)

LIMOUSINES FROM CANADA

Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the Commission determines,<sup>2</sup> pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of limousines,<sup>3</sup> provided for in subheadings 8703.23.00, 8703.24.00, and 9802.00.50 of the Harmonized Tariff Schedule of the United States (previously under items 692.10 and 806.20 of the Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Canada and sold in the United States at less than fair value (LTFV).

Background

On July 24, 1989, petitions were filed with the Commission and the Department of Commerce by Southampton Coachworks, Ltd., Farmingdale, NY, on behalf of U.S. manufacturers of limousines, alleging that an industry in the

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<sup>1</sup> The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(h)).

<sup>2</sup> Commissioner Rohr did not participate.

<sup>3</sup> The products covered by these investigations are limousines, which are defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders. The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham, or any other six or eight cylinder gasoline engine powered chassis.

United States is materially injured by reason of subsidized imports and LTFV imports of limousines from Canada. Accordingly, effective July 24, 1989, the Commission instituted preliminary countervailing duty and antidumping investigations Nos. 701-TA-300 (Preliminary) and 731-TA-438 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 2, 1989 (54 F.R. 31897). The conference was held in Washington, DC, on August 15, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## VIEWS OF THE COMMISSION

We unanimously 1/ determine that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized and allegedly less than fair value imports of limousines from Canada.

I. Like Product and Domestic Industry

To determine whether there is a reasonable indication of material injury to a U.S. industry by reason of the subject imports, the Commission must first make factual determinations with respect to the "like product" and the "domestic industry." Section 771(4)(10) of the Tariff Act of 1930 defines the "like product" as "[a] product that is like, or in the absence of like, most similar in characteristics and uses with the articles subject to investigation." 2/ The domestic industry, correspondingly, is defined as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 3/

The Commission's decision regarding the appropriate like product(s) is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. 4/

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1/ Commissioner Rohr did not participate in these investigations.

2/ 19 U.S.C. § 1677(10).

3/ 19 U.S.C. § 1677(4)(A).

4/ Asociacion Colombiana de Exportadores de Flores, et. al. v. United States ("ASOCOLFLORES") CIT, Slip. Op. 88-91 at 9 (July 14, 1988).

In analyzing like product issues, we generally examine such factors as: (1) physical characteristics, (2) end uses, (3) interchangeability of the products, (4) channels of distribution, (5) production processes, (6) customer or producer perceptions, (7) common manufacturing facilities and production employees, and (8) price. 5/ No single factor is dispositive, and we may consider other relevant factors based upon the facts of a given investigation.

As noted by Congress, the like product requirement is not to be "interpreted in such a narrow fashion as to permit minor differences in physical characteristics and uses to lead to the conclusion that the products are not like each other." 6/ Accordingly, we have found minor product variations to be an insufficient basis for a separate like product analysis, and instead, have looked for clear dividing lines among products. 7/

The imported articles subject to this investigation are limousines from Canada. 8/ Petitioner Southampton asserts that the appropriate U.S. like

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5/ Certain Small Business Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan, Inv. Nos. 731-TA-426-428 (Preliminary), USITC Pub. No. 2156 (February 1989) at 4; Light-Duty Integrated Hydrostatic Transmissions and Subassemblies Thereof, With or Without Attached Axles, from Japan, Inv. No. 731-TA-425 (Preliminary), USITC Pub. No. 2149 (January 1989); Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Invs. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987); ASOCOFLORES at 12, n.8.

6/ S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

7/ See, e.g., Certain Small Business Telephone Systems and Subassemblies, *supra*, at 4; Operators for Jalousie and Awning Windows from El Salvador, Invs. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 (January 1987) at 4, n.4; Sony Corporation of America v. United States, Slip op. 89-55 (CIT, April 26, 1989) at 6.

8/ In its notice of initiation, Commerce defined the scope of the investigation as:

extended wheelbase and expanded seating capacity motor  
vehicles principally designed for the transport of persons, of

(continued...)

product is "all limousines and only limousines." 9/ Southampton maintains that a formal sedan, 10/ a modified Lincoln Town Car, 11/ or any other vehicle that is not cut and extended to allow extra seating capacity and other accoutrements is not "like" the imports. 12/

In reply, respondent A.H.A. Automotive Technologies Corp. ("A.H.A.")

8/(...continued)

a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services. 54 Fed. Reg. 34805 (August 22, 1989).

9/ Petitioner's postconference brief at 5.

10/ Formal sedan is an ambiguous term within the business' lexicon. As defined by petitioner, a formal sedan is a modified Cadillac Brougham automobile with a longer door and with an extra pair of jump-seats, which are located between the front and rear seats and flip or fold down to face the rear seats. Conference Transcript (Tr.) at 11, 94-95, 96, and 107.

Respondent A.H.A. Automotive Technologies Corp., however, uses formal sedan more broadly to also include Modified Town Cars and extended wheelbase vehicles without additional seating capacity within the "formal sedan" category. Compare Tr. at 128 with Tr. at 107. Vehicles sometimes are extended six, twelve, or eighteen inches to provide extra leg room and the ability to install chauffeur's dividers, communications equipment or writing surfaces. Id. For example, A.H.A. produces what it calls the "Formal XL," which is basically the same as a regular sedan but has rear doors on it which are six inches longer. Tr. at 129. Because it is difficult to expand seating capacity in anything less than a 35-36 inch stretch limousine, however, 12-18 inch extended wheelbase vehicles constitute a very small proportion of A.H.A. limousine production. Tr. at 129, 138.

11/ A Modified Town Car is simply a Lincoln Town Car automobile which is modified on the inside to include accessories for corporate use, such as tables or tinted windows. There is no stretching or structural change to the vehicle. Tr. at 94, 96-98.

12/ Petitioner's postconference brief at 6. This would include, for example, a black car, which is a darkly colored, unmodified Lincoln Town Car or Cadillac Brougham used to transport people. Tr. at 128.

argues that black cars and formal sedans are "like" limousines. 13/  
 According to A.H.A., black cars and formals, inter alia, have the same  
 appearance as limousines, are generally interchangeable with  
 limousines, 14/ and are perceived similarly by customers. 15/

A.H.A. further argues that the like product should also include Lincoln  
 Town Cars or Cadillac sedans sold to limousine producers for conversion  
 into limousines. These automobiles are known as "coachbuilder delete  
 automobiles." 16/ A.H.A. contends that these unfinished "component  
 vehicles" are like finished limousines. 17/

For purposes of this preliminary determination, we find that all  
 limousines with extended wheelbases and with expanded seating capacity  
 constitute the like product. 18/

Initially, we note that this investigation differs from many others that  
 the Commission faces, for the articles subject to investigation are  
 identified primarily by their physical characteristics and production  
 processes. Imported limousines are automobiles that are cut, extended, and  
 have additional seating capacity. Indeed, expanded seating capacity  
 requires that the vehicle be cut and extended. Accordingly, in this  
 investigation these factors are more important to the Commission's like  
 product determination than is normal.

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13/ Respondent's postconference brief at 9-11.

14/ Id. at 10.

15/ Id. at 10.

16/ See Tr. at 62-63, 101-102.

17/ Respondent's postconference brief at 3-9. These vehicles are shipped  
 from the manufacturer without certain trim items, such as vinyl covering on  
 the roof, and with other items, such as heavy-duty engine and suspension  
 features. Report at A-4.

18/ This like product definition includes formal sedans that are cut, have  
 extended wheelbases, and have additional seating capacity.

Limousine manufacturing consists of seven stages: stripping the exterior trim and interior components; cutting the vehicle in two; extending the vehicle to the desired length and welding the frame extension in place, as well as welding or attaching the new body panels, door posts, floor pans, extended drive shaft, exhaust pipes, fuel line, brake lines and cables, and electrical wiring; painting; interior finishing; exterior finishing; and upgrading the vehicle suspension. 19/ In comparison, Modified Town Car production typically only involves installing some amenities in the interior of the car, at little cost, and involves no stretching or expanded seating. 20/ Black car production involves no alterations at all. 21/

Finally, we determine that the coachbuilder delete cars are not part of the like product in this investigation. 22/ Limousine producers add substantial value to the component coachbuilder delete sedans in producing

19/ Report at A-4-7.

20/ Tr. at 31.

21/ See e.g. Tr. at 128. Furthermore, we note the absence of any clear evidence on the record to suggest that domestic manufacturers of limousines also use the same production employees and manufacturing facilities to produce modified Town Cars, extended wheelbase sedans without expanded seating capacity, or black cars.

22/ In considering whether "semifinished" or "component" articles are "like" the finished product, in addition to the factors enumerated above, we also consider: (1) the necessity for further processing, (2) the costs of such processing, (3) the value added by such processing, (4) whether the article at an earlier stage of production embodies or imparts to the finished article an essential characteristic or function, (5) whether there are significant uses or independent markets for the finished and unfinished articles, and (6) the degree of interchangeability of articles at the different stages of production. See e.g. 3.5" Microdisks and Media Therefor from Japan, 731-TA-389 (Final), USITC Pub. 2170 (March 1989) at 7; Light-Duty Integrated Hydrostatic Transmissions and Subassemblies Thereof, with or without attached axles, from Japan, Inv. No. 731-TA-425 (Preliminary), USITC Pub. 2149 (January 1989) at 19; Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20, 731-TA-391-399 (Preliminary), USITC Pub. 2083 (May 1988) at 7.

a limousine. Indeed, limousines are produced using very different production processes from those used to produce a coachbuilder delete sedan, which is manufactured by Lincoln-Mercury or by Cadillac using standard automotive production processes. These standard processes require capital equipment, manufacturing tooling, and technology which are fundamentally different both in kind and in degree from those used in limousine production.

The essential characteristics of limousines are their extended wheelbase, additional seating capacity, and accessories, such as televisions, bars, and writing tables. The coachbuilder's delete sedan possesses none of these essential limousine characteristics. Indeed, it is the coachbuilding manufacturing process which imparts these essential characteristics. Coachbuilder delete sedans, moreover, are not dedicated to limousine production alone; they also can be used to produce black cars or modified Town Cars. 23/

Should this investigation return for a final determination, however, we will reconsider whether the Commission should include modified Town Cars, or extended wheelbase limousines which lack additional seating capacity, as like products. We also shall gather additional information on funeral limousines to determine whether they constitute a separate like product. Finally, in any final investigation we will revisit the issue of whether "VIP" limousines are a separate like product from limousines, such as the

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23/ See Tr. at 63.

Cadillac Brougham formal, that have extended wheelbases of 16 inches and additional seating capacity. 24/

Based upon our like product determination, we find the domestic industry consists of the producers of the like product, limousines.

## II. Condition of the Industry

### A. Background

Initially, we note the poor response of U.S. limousine producers to the Commission's questionnaire in this investigation. 25/ Ordinarily, we might consider drawing an adverse inference against the domestic industry, but we are persuaded that such an inference is not appropriate here because the record contains documented evidence of interference with the Commission investigation by an employee of respondent. 26/

Mr. Robert Hensley, U.S. Fleet and Dealer Development Manager for respondent A.H.A., admits that he contacted 9 U.S. producers and told them that if they opposed the petition, they were not obliged to answer the Commission questionnaires, and moreover, that if he were in their position

24/ Limousines with extended wheelbases between 48 and 66 inches, with expanded seating capacity and other accoutrements, are generally referred to as "VIP" limousines. See e.g. Tr. at 54, 71.

25/ Slightly less than one-third of the U.S. producers returned questionnaires. These questionnaires provided usable industry data, which accounted for approximately one-third of domestic shipments. Report at A-11-12, 18. Even substantially fewer firms, however, provided usable financial or pricing data. Report at A-25, 40.

The poor response of U.S. limousine producers may have been as a result of respondent's activities described, infra, a recent slowdown and temporary closing of some limousine manufacturing facilities, a Cadillac Dealers New Model Preview for limousine builders in Orlando, Fl., which was contemporaneous with this investigation, or a general lack of sophisticated record keeping or adequate staff to respond to the Commission's questionnaire. Report at A-11-12, n. 27.

In any final investigation, we will attempt to gather more complete information on the domestic industry's performance.

26/ See Report at B-13.

he would not submit the questionnaire for fear of disclosure. 27/ Mr. Hensley's activities have directly hindered the Commission's preliminary investigation. 28/ We view this type of interference as extremely serious and, upon investigation of such alleged incidents, we will consider such measures as may be appropriate, including referring the matter to the Department of Justice for possible criminal action.

#### B. Industry Indicia

In assessing the condition of the domestic industry, we consider, among other factors, U.S. consumption, production, shipments, capacity, capacity utilization, inventories, employment, wages, financial performance, capital investment, and research and development expenditures. 29/ No single factor is dispositive, and in each investigation we consider the particular nature of the industry involved and the relevant economic factors which have a bearing on the state of the industry. 30/ Before describing the condition of the domestic industry, we note that much of the information on which we base our determination is business proprietary. The information gathered in this preliminary investigation, moreover, covers far less than one-half of the industry.

Reported U.S. capacity to produce limousines grew by 12 percent from 1986 to 1987, but fell 43 percent in 1988. 31/ It increased 9 percent from

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27/ Id.

28/ Id.

29/ See 19 U.S.C. § 1677(7)(C)(iii).

30/ See 19 U.S.C. § 1677(7)(C)(iii), which requires us to consider the condition of the industry in the context of the business cycle and conditions of competition that are distinctive to the domestic industry. See also H.R. Rep. 317, 96th Cong., 1st Sess. at 46; S. Rep. 249, 96th Cong., 1st Sess. at 88.

31/ Report at A-19.

interim (January-June) 1988 to interim 1989. 32/ U.S. production of limousines decreased by 12 percent from 1986 to 1987 and decreased again by 12 percent from 1987 to 1988. 33/ Production was relatively constant for interim 1989 versus interim 1988. 34/ The rate of capacity utilization fell from 61 percent in 1986 to 48 percent in 1987, before increasing to 74 percent in 1988. 35/ In interim 1989, however, the capacity utilization rate fell to 68 percent from 74 percent in interim 1988. 36/

Reported shipments of U.S.-produced limousines decreased 14 percent from 1986 to 1987, and again decreased 14 percent from 1987 to 1988. Shipments also declined by 7 percent from interim 1988 to interim 1989. Total shipment unit values, however, increased by 5 percent from 1986 to 1988, with a 3 percent increase from interim 1988 to interim 1989. 37/ End of period inventories increased 62 percent from 1986 to 1987, and increased again by 26 percent in 1988. 38/ From interim 1988 to interim 1989, inventories increased 56 percent. 39/

The reported number of production and related workers producing limousines increased 19 percent from 1986 to 1987, but then decreased by 17 percent in 1988. 40/ Similarly, hours worked, wages paid, and total compensation to limousine production and related workers increased by

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32/ Id.

33/ Id.

34/ Id.

35/ Id.

36/ Id.

37/ Report at A-20.

38/ Report at A-22.

39/ Id.

40/ Report at A-23.

approximately 20 percent from 1986 to 1987, but then fell by nearly 13 percent from 1987 to 1988. 41/

A very few U.S. limousine producers supplied usable financial data, and consequently, financial performance trends cannot be specifically discussed, except to note that the U.S. producers' financial performance generally weakened over the period of investigation. 42/ 43/ Based on the data available in this investigation, we find there is a reasonable indication that the domestic limousine industry is materially injured. 44/ 45/

### III. Reasonable Indication of Material Injury by Reason of the Allegedly Unfair Imports

Under 19 U.S.C. §§ 1671b(a) and 1673b(a), the Commission must determine whether, based upon the best information available at the time of the

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41/ Id.

42/ Report at A-25-30.

43/ Chairman Brunsdale notes that conclusions with respect to financial performance in this case, in which domestic producers can be characterized as small concerns (Report at A-12), are sensitive to whether returns to proprietors are classified as operating income or officers' salaries and bonuses. Report at A-25. Chairman Brunsdale will look closely at alternative measures of economic returns in any final investigation and determine at that time which ones provide the most accurate measures of financial performance.

44/ Chairman Brunsdale believes the conclusions regarding the condition of the domestic industry alone do not satisfy the statutory mandate that the Commission determine whether there is a reasonable indication that the industry is materially injured by reason of the subject imports.

45/ Vice Chairman Cass does not join in this conclusion. He believes that the statute under which the Commission conducts title VII investigations does not contemplate any decision based solely on the condition of the domestic industry. While he believes the condition of the domestic industry is relevant to assessing whether the effect of the allegedly subsidized or LTFV imports has been "material," that information has relevance only in assessing material injury by reason of the allegedly LTFV imports. See Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (January 1989) at 95-113 (Concurring and Dissenting Views of Commissioner Cass); Generic Cephalixin Capsules from Canada, 731-TA-423 (Final), USITC Pub. 2211 (August 1989) at 47 (Additional Views of Vice Chairman Cass). See Additional Views of Vice Chairman Cass, infra.

preliminary determination, there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports. Material injury is "harm which is not inconsequential, immaterial or unimportant." 46/

The definition of "material injury" is the same in both preliminary and final investigations, but in preliminary investigations an affirmative determination is based on a "reasonable indication" of material injury, as opposed to a finding of actual material injury or threat required in a final determination. 47/ In American Lamb Co. v. United States, 48/ the Federal Circuit sustained the Commission's construction of the reasonable indication language, such that, no reasonable indication of material injury exists if "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation." 49/ 50/

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46/ 19 U.S.C. § 1677(7)(A). However, in determining whether there is material injury, the Commission must consider:

- (I) the volume of imports of the merchandise which is the subject of the investigation,
- (II) the effect of imports of that merchandise on prices in the United States for like products, and
- (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States.

The Commission, moreover, may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

19 U.S.C. § 1677(7)(B).

47/ Compare 19 U.S.C. §§ 1671b(a) and 1673b(a) with 19 U.S.C. §§ 1671d(b)(1) and 1673d(b)(1).

48/ 785 F. 2d 994 (Fed. Cir. 1984).

49/ Id. at 1001-1004. Shock Absorbers and Parts, Components, and Subassemblies Thereof from Brazil, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (September 1988) at 4-5. (continued...)

In making our determination, we take into account any information demonstrating possible alternative causes of injury to the domestic industry. 51/ Moreover, "the condition of an industry [is] considered in the context of the dynamics of that particular industry sector, not in relation to other industries or manufacturers as a whole." 52/ We, however, do not weigh causes. 53/

Petitioner Southampton described the market for limousines as one in which demand is shrinking, in part because of the stock market crash of 1987 and later, because the Lincoln Town Car, which serves as the base for

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50/ We note that when, as here, a respondent to the investigation interferes with a Commission investigation, the Commission may be unable to conclude that there is no likelihood that contrary evidence will be developed in a final investigation. See *American Lamb Co. v. United States*, supra, at 1001-1004. Given the strict and short statutory deadlines governing the Commission's preliminary determinations in Title VII investigations, the Commission cannot refocus its investigation from the condition of the domestic industry to an investigation of the effects of any interference or noncompliance with Commission attempts to gather information. The parties, however, should not conclude that by interfering in the Commission's data collection process, they can thereby insure a preliminary affirmative determination under American Lamb.

When a party withholds information or obstructs a Commission investigation, the Commission may take an adverse inference against the responsible party. See 19 U.S.C. § 1677e; *Pistachio Group of Association of Food Industries v. United States*, 671 F. Supp. 31, 40 (CIT 1987); see also *Fresh, Chilled, or Frozen Pork from Canada*, Inv. No. 731-TA-298 (Preliminary), USITC Pub. 2158 (February 1989) at 17, n.44.; *Weighing Machinery and Scales from Japan*, Inv. No. 701-TA-7 (Final), USITC Pub. 1063 (May 1980); *Fish, Fresh, Chilled, or Frozen, Whether or Not Whole, But Not Otherwise Prepared or Preserved, From Canada*, Inv. No. 701-TA-40 (Final), USITC Pub. 1066 (May 1980); *Atlantic Sugar, Ltd. v. United States*, 553 F. Supp. 1055, 1059 (CIT 1982). We do not make such an inference in this investigation, but note its availability to deal with recalcitrant or obstructionist parties.

51/ See S. Rep. No. 249, 96th Cong., 1st Sess. 58 (1979); 19 C.F.R. § 202.27.

52/ Id.

53/ See e.g. *Citrosuco Paulista v. United States*, 704 F. Supp. 1075, 1101 (CIT 1988).

most limousines, is being redesigned by Ford Motor Co. 54/ Consequently, according to petitioner, pricing has grown increasingly competitive, and domestic producers have been forced to lower their prices to meet the prices of the subject imports. 55/

Respondent A.H.A., in reply, argued that the proliferation of black cars as alternatives to limousines, increased availability of used or almost new limousines, deferral of limousine purchases in anticipation of the 1990 Lincoln Town Car, and overexpansion by U.S. producers have caused any and all injury the domestic industry may be suffering. 56/

We find that there is a reasonable indication that the subject imports are a cause of material injury to the U.S. limousine industry. The volume of subject imports increased from 1986 to 1988. 57/ We particularly note that as a share of apparent U.S. consumption of limousines, U.S. imports of Canadian produced limousines increased continuously from 1986 to 1988, before showing a sharp decline in interim 1989 as compared to interim 1988. 58/

We find the subject imports' increasing market share during a period of decreasing U.S. market demand for limousines to be significant, especially in light of the rapid growth in U.S. limousine producers' inventories over the period of investigation. 59/

Indeed, the record in this investigation suggests that the subject imports' relative growth in the U.S. market was the direct result of their

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54/ Tr. at 14-15. The Lincoln Town car redesign allegedly has caused limousine customers to defer their purchases until the new 1990 model is available. Id.

55/ Tr. at 14.

56/ Respondent A.H.A.'s postconference brief at 16-17.

57/ Report at A-35-36, Table 13.

58/ Report at A-36.

59/ Cf. Tr. at 42-43.

prices. 60/ While we are cognizant of the difficulty in comparing products as differentiated by their options and their terms of sale as are limousines, we nevertheless find that in this preliminary investigation the subject imports appear to have caused significant price suppression/depression. 61/ Quarterly comparison of domestic limousine prices versus prices for roughly comparable limousines from Canada reveals that in 51 of 55 quarters surveyed, the subject imports undersold limousines produced by the domestic industry. 62/ The specific amount of underselling is subject to serious question, however, due both to the U.S. producers' poor response to the Commission's requests for information and to the difficulties in comparing limousine sale transactions. 63/

We note that A.H.A. argues that price comparisons are inherently unreliable in this industry because limousine purchases often are dictated by nonprice factors which differentiate the subject imports from U.S. produced limousines. 64/ However, product differentiation ordinarily confers a price premium when, as A.H.A. argues, the distinguishing non-price features of its limousines are attributes desired by consumers. 65/ Thus, accepting A.H.A.'s claims arguendo, we would expect to see the subject imported limousines command a higher price than limousines produced in the United States. 66/ When viewed within this context, the underselling by

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60/ We again note the poor response by U.S. producers to the Commission's questionnaires, resulting in only partial U.S. pricing data. Should this investigation return for a final we will seek more comprehensive and detailed pricing information.

61/ See e.g., Report at A-37, A-40-41, Tables 15-18. Domestic prices over the period of investigation were essentially stable or they decreased.

62/ Report at A-42.

63/ Report at A-42-43.

64/ See A.H.A.'s postconference brief at 22-24.

65/ See e.g., Respondent's postconference brief at 22-24.

66/ See Report at A-37-48.

subject imports is especially probative, for the price differential between the subject Canadian and U.S. limousines could not be dismissed as reflecting qualitative, nonprice attributes favoring U.S. limousines.

The record, moreover, suggests that price is an extremely relevant consideration in the limousine purchase decision, as corroborated by numerous confirmed instances of sales and revenues lost to the subject imports based solely on price. 67/

In sum, the forces identified as adversely affecting the limousine market in the United States: falling demand, substitution toward black cars, increasing availability of used limousines, the stock market crash in 1987, and the advent of the 1990 redesigned Lincoln Town Car, do not explain the subject imports' gain in U.S. market share, for these factors do not appear to benefit the subject limousines from Canada in their competition against domestically produced limousines. Indeed, we find that the increase in the Canadian limousines' U.S. market share during a period of declining demand can reasonably be attributed to the subject imports' prices, which are depressing or suppressing the price for limousines produced in the United States. 68/ Based upon the best information available in this preliminary investigation, we find a reasonable indication that the subject imports are a cause of material injury to the domestic industry producing limousines.

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67/ Report at A-45-48.

68/ Chairman Brunsdale finds that the fragmentary data available at this stage of the investigation do not warrant such a firm conclusion on price suppression/depression, but do provide evidence for a finding of reasonable indication of material injury by reason of the subject imports in this preliminary investigation.

**Conclusion**

Accordingly, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized and allegedly less than fair value imports of limousines from Canada

## ADDITIONAL VIEWS OF VICE CHAIRMAN RONALD A. CASS

Limousines from Canada  
Invs. Nos. 701-TA-300 and 731-TA-438

I join my colleagues in concluding that a reasonable indication exists that a domestic industry is materially injured by reason of less than fair value or subsidized sales of limousines imported from Canada. I also join my colleagues in their conclusions with respect to the definition of the like product and the domestic industry. I write separately to explain my reasons for this conclusion and to suggest some concerns on which the Commission might focus if this matter proceeds to final investigations.

I. Legal Standard Governing Disposition of Preliminary Investigations

Our reviewing courts have made it plain that Congress intended to "weight the scales in favor of affirmative and against negative determinations" in preliminary investigations under Title VII of the Tariff Act of 1930.<sup>1/</sup> This intention is manifest in the Congressional direction that the Commission reach an affirmative determination whenever there exists a "reasonable indication" that an industry in the United States has been materially injured, or is threatened with material injury, or that the development of an industry in the United States has been materially retarded,

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<sup>1/</sup> American Lamb Co. v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986); see also Yuasa-General Battery Corp. v. United States, slip op. 88-89 (Ct. Int'l Trade, July 12, 1988), at 5.

by reason of imports that have allegedly been sold at less than fair value (LTFV or "dumped") or subsidized.<sup>2/</sup>

Commission interpretation of this statutory language, approved by our reviewing courts,<sup>3/</sup> has been that it is appropriate to reach negative determinations in preliminary investigations only when the record as a whole plainly does not support a determination that an industry has suffered material injury by reason of the assertedly unfairly traded imports and there is little likelihood that sufficient additional supporting evidence will be presented to reach a different conclusion in a final investigation.<sup>4/</sup> As I have previously emphasized,<sup>5/</sup> when the Commission reaches a negative determination, it must be clear that the evidence supporting the petition does not, standing alone, provide a reasonable indication of material injury or the threat of material injury, or that the contrary evidence is so clear and convincing that the evidence supporting the petition cannot be credited as a reasonable indication of injury.<sup>6/</sup>

Applying that legal standard here requires an affirmative determination even though an "unweighted" assessment of the record before us would, in all probability, not find a domestic industry materially injured by LTFV or subsidized imports from Canada. The evidence now before the Commission in these investigations is inadequate to determine convincingly whether unfairly

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<sup>2/</sup> 19 U.S.C. §§ 1671b(a), 1673b(a). For the purposes of this discussion, the term "injury" also encompasses material retardation.

<sup>3/</sup> See American Lamb, *supra*; Yuasa-General Battery Corp., *supra*.

<sup>4/</sup> See American Lamb, *supra* n. 1, 785 F.2d at 994.

<sup>5/</sup> New Steel Rails from Canada, Inv. Nos. 731-TA-297 and 731-TA-422, USITC Pub. 2135 (Preliminary) (November 1988) (Additional Views of Commissioner Cass)

<sup>6/</sup> Id., at 30.

traded imports have caused material injury to a domestic industry. Ambiguous or incomplete information typically, as here, leaves open the possibility that the information available in a final investigation may sustain an affirmative final determination. The Commission may reach an affirmative determination when evidence, although not conclusively showing material injury, appears reasonably likely upon more intensive examination to support an affirmative final investigation.<sup>7/</sup>

In the instant investigations, there is evidence which might support a negative determination in final investigations. While the evidence of record at this time seems to indicate that the allegedly unfairly traded imports do not materially injure the domestic industry, the record is sufficiently incomplete that a different conclusion might be reversed in any final investigation. The evidence arising from the preliminary investigation taken as a whole must satisfy the Commission that there is "at least a colorable basis" for an affirmative determination.<sup>8/</sup> That standard is satisfied here.

## II. Causation of Material Injury

In making their determination as to whether an industry in the United States has been materially injured by reason of dumped or subsidized imports,

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<sup>7/</sup> However, the mere absence of some potentially useful information cannot by itself support an affirmative preliminary determination if the evidence of record indicates that, even if ambiguous or missing information is obtained and is favorable to petitioner, there is still no reasonable likelihood that the evidence overall would reveal the requisite level of material injury or threat of material injury to sustain an affirmative finding in a final investigation, or if there is no plausible basis for belief that additional evidence will be forthcoming or will be favorable to petitioner.

<sup>8/</sup> Electrical Manganese Dioxide from Japan, Ireland, and Greece, Inv. Nos. 731-TA-406-408 (Preliminary), USITC Pub. 2097 (July 1988) (Additional Views of Vice Chairman Brunsdale and Commissioners Liebeler and Cass) at 23-24.

Commissioners are directed by the Omnibus Trade and Competitiveness Act of 1988 specifically to address in each investigation the three factors set forth in the statute<sup>9/</sup>; the law also requires explanation of any other unlisted factor on which a Commissioner relies in reaching a determination in a Title VII investigation.<sup>10/</sup> As I have indicated frequently in the past, I believe that the factors spelled out in the law suggest a three part inquiry into the effect on the domestic industry of the assertedly unfairly traded imports subject to investigation.<sup>11/</sup>

The first part of this inquiry examines the extent to which the volumes and prices of the subject imports were affected by the alleged dumping. This inquiry incorporates the first of the statutory factors upon which the Commission is directed to rely, that is, the volume of imports of the merchandise under investigation. The volume of allegedly unfair imports and the price that will be charged for the imports are closely related, and the initial inquiry evaluates the relation of these factors to the asserted unfair trade practice. The second statutory factor, the effect of the subject imports on prices in the United States for like products, provides the focus for the second part of the inquiry. This part examines the effect of changes in the market for the subject imports on prices (and, correlatively, on sales) of the domestic like product. Examination of the relation between the imports and domestic like product, and the nature of the markets for the production and consumption of the domestic like product, is

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<sup>9/</sup> 19 U.S.C. § 1677(7).

<sup>10/</sup> Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, § 1328(1)(B)(ii), 102 Stat. 1107, 1205 (1988).

<sup>11/</sup> *New Steel Rails*, *supra*, at 35.

an essential step in this evaluation of the effect of the allegedly unfair imports on the prices of the domestic like product. Third and finally, the impact of these changes in prices and sales of the domestic like product on employment and investment in the domestic industry must be considered, and a judgement whether the impact is material must be made. Again, that is essentially coincident with the third statutory factor, the impact of the subject imports on domestic producers of like products, including explicit attention to the various indicia of such impact listed in Title VII as subsidiary factors pertinent to this determination. In these investigations, some information critical to each of the steps in the analysis outlined above is missing.

In requiring that members of the Commission explain any other factor that enters into their analysis and determination in any investigation, the 1988 Act underscores the fact that Title VII does not restrict Commissioners solely to the listed statutory factors.<sup>12/</sup> Certain other relevant economic factors, such as data pertaining to the volume of sales made by Respondent producers in their home markets and the dumping margins (the relative amounts by which ex-factory prices for sales of the subject product in the exporters' home markets exceed comparable prices for sales in the United States), enter into my analysis in Title VII cases. Their relevance has been explained fully in earlier investigations,<sup>13/</sup> and in the interests of brevity I shall not repeat those explanations here.

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<sup>12/</sup> Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, § 1328(1)(B)(ii), 102 Stat. 1107, 1205 (1988).

<sup>13/</sup> See, e.g., Generic Cephalexin Capsules from Canada, *supra* n. 8, at 56.

### A. LTFV and Subsidized Imports

The starting point for the inquiry into effects of LTFV or subsidized imports on the U.S. domestic industry is the volume of such imports. The statute governing these investigations focuses our attention both on the overall volume of imports allegedly subsidized or sold at LTFV and on the volume of such imports relative to U.S. production or consumption.<sup>14/</sup> Imports

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<sup>14/</sup> 19 U.S.C. § 1677(7)(C)(i) directs that, in making its determinations under the statute, the Commission shall consider in each case,

whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.

This language does not define what is meant by "the merchandise," but other provisions in Title VII suggest its meaning. For final investigations, the Commission is to determine the effects of "merchandise that [the Department of Commerce has determined] is being, or is likely to be, sold in the United States at less than its fair value" or that is receiving a foreign subsidy for manufacture, production, or exportation. 19 U.S.C. §§ 1671b, 1673b. For preliminary investigations, reference is to the merchandise being investigated by the Department of Commerce, that is, the merchandise that is alleged to have been subsidized or sold at LTFV 19 U.S.C. §§ 1671d, 1673d. In the bifurcated system for deciding dumping and subsidy cases in the United States, this language replaces the more direct instructions found in other national laws and in the GATT to determine the impact of "dumping, through the effects of dumped imports" or of "subsidized imports." The more cumbersome language in U.S. law is necessary to avoid the possibility that a direction to the Commission to assess the effects of dumping (or dumped imports or subsidized imports would be misread as a delegation of authority to reexamine the issues delegated to the Department of Commerce, *i.e.*, whether and to what extent particular goods are dumped or subsidized. The legislative history of Title VII does not, however, suggest that the directive to look at the volumes and effects of "merchandise" was intended to focus attention on issues different from those relevant under the GATT's Antidumping Code and Subsidies Code, which Title VII expressly implements. Our focus then is on the imports that were allegedly sold at LTFV or subsidized.

U.S. law does not, however, require that every individual item within the class of merchandise under investigation (or, in preliminary investigations, within the class of imports alleged by Petitioner) be found to have been unfairly traded. *Algoma Steel Corp, Ltd. v. U.S.*, 688 F.Supp. 639 (CIT 1988), *aff'd* 865 F.2d 240 (Fed.Cir. 1989). The courts have stressed, nonetheless, that proceeding on a "class of merchandise" basis should not yield different results than a focus only on dumped or subsidized imports. The Court of International Trade noted that the Department of Commerce,

of limousines from Canada in 1988 were valued at [ \* \* ] in 1988, a [ \* ]% [ \* \* ] over the comparable figure in 1987. That [ \* \* ] in the value of imports continued in the first half of 1989, [ \* \* ] by some [ \* ]% over the comparable figure in 1988. That [ \* \* ] in value was due to a [ \* ] in unit values of imported limousines, since the number of imported limousines fell continuously over this period. The number of limousines imported from Canada fell by some [ \* ]% between 1987 and 1988, and fell by an additional [ \* ]% in the first half of 1989 as compared to the comparable period in 1988.<sup>15/</sup> As a share of U.S. consumption, Canadian imports rose from [ \* ]% to [ \* ]% between 1987 and 1988, and fell from [ \* ]% in the first half of 1988 to [ \* ]% in the first half of 1989.<sup>16/</sup>

All of these figures are relevant to calculation of the effects of the unfair trade practices at issue and of the imports through which those practices affect U.S. business. Standing alone, however, this information cannot readily indicate the manner in which imports that, due to subsidies or to dumping, are sold into the United States at lower prices and in greater volumes than would obtain without those unfair trade practices. In order to understand the extent to which the volumes and prices of the subject imports were affected by the dumping or subsidization alleged to have taken place, it

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having defined a class of imports subject to investigation, will then calculate a weighted average dumping or subsidization margin for the class as a whole, taking account of the percentage of that class which has in fact been unfairly traded. Thus, the court found that in applying the weighted average dumping margin to the class as a whole, even if that class includes some items which have been fairly traded, the Department compensated for inclusion of items that were not dumped or subsidized, since the calculated margin has been correspondingly reduced by the share of imports in the class which have been fairly traded. Id.

<sup>15/</sup> Report at A-35-36.

<sup>16/</sup> Report at A-36.

is necessary to examine the magnitude of the alleged unfair trade practices. For that reason, the LTFV margin and the extent of subsidization are critical to the first part of an injury analysis.

In this investigation, Petitioner has alleged that the prices of the subject imports substantially decreased as a result of the alleged unfair trade practices under investigation. Petitioner has alleged a dumping margin on the merchandise alleged to be sold at less than fair value of between 19.37% and 24.35%. (Commerce adjusted those margins to between 21.14% and 25.20% in its preliminary investigation.) Those alleged dumping margins have not been expressly rebutted by the Respondent here. In such circumstances, the dumping margin alleged by a petitioner generally will be the best evidence on that issue in a preliminary investigation.<sup>17/</sup> Even if the Commission need not take the alleged margins on faith for the purposes of a preliminary investigation, those alleged margins must at least be given substantial credence in the absence of clear and convincing evidence to the contrary.<sup>18/</sup> In the absence of rebuttal by Respondent or any other compelling

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<sup>17/</sup> Indeed, the legislative history of the Trade Agreements Act of 1979 makes clear that, in preliminary investigations in antidumping cases, the Commission "will be guided by the description of the allegation of the margin of dumping contained in the petition or as modified by . . . [Commerce]." Statement of Administrative Action, Trade Agreements Act of 1979, at 415. See also Martial Arts Uniforms from Taiwan, Inv. No. 731-TA-424, USITC Pub. 2148 (Preliminary) (December 1988) (Additional Views of Commissioner Cass), at 22.

<sup>18/</sup> This is consistent with the Commission's practice in preliminary investigations, approved by our reviewing courts, to view evidence in a light favorable to petitioners, drawing inferences adverse to petitioners' case only where the opposing evidence clearly and convincingly supported the contrary proposition. See American Lamb Co v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986); Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan, Inv. No. 7310TA-131 and 132 (Preliminary), USITC Pub. 1324 (June 1983); Canned Mushrooms from the Peoples' Republic of China, Inv. No. 731-TA-115 (Preliminary) (December 1982). See also Yuasa-General Battery Corp. v. United States, slip op. 88-89 (Ct. Int'l Trade, July 12, 1988), at 5.

contrary evidence, I feel constrained to accept the LTFV margins alleged by Petitioner for purposes of this preliminary determination.

The dumping margin alone, however, is insufficient to determine the extent to which the exporter's price is lower, and the volume of imports consequently higher, in the United States than it would be in the absence of the alleged unfair trade practice. The decline in the price of the dumped imports that occurs as a result of dumping, while related to the facts subsumed within the dumping margin, generally will be less than the full amount of the dumping margin.<sup>19/</sup> In any case where the differential pricing that constitutes dumping has occurred, the actual decrease in the price of the subject imports that occurred due to dumping, as a percentage of the dumping margin, will be related to the proportion of the sales of the subject foreign producers in their combined U.S. and home markets accounted for by sales in their home markets.<sup>20/</sup>

In this preliminary investigation, these figures are not available. While the Respondent has provided data which indicate that, as of early 1989, some [ \* ]% of its combined home market sales and U.S. exports went to the United States,<sup>21/</sup> the Respondent is only one of several members of the Canadian limousine industry. Evidence before the Commission indicates that

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<sup>19/</sup> See, e.g., Certain Internal Combustion, Industrial Forklift Trucks from Japan, Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988) (Additional Views of Commissioner Cass), at 131; see also USITC Memorandum EC-L-143 (May 6, 1988) from Office of Economics at 10.

<sup>20/</sup> See, e.g., Granular Polytetrafluoroethylene Resin from Japan, Inv. No. 731-TA-385 (Final), USITC Pub. 2112 (August 1988) (Additional Views of Commissioner Cass) at 74; Certain Bimetallic Cylinders from Japan, Inv. No. 731-TA-383 (Final), USITC Pub. 2080 (May 1988) (Additional Views of Commissioner Cass) at 44.

<sup>21/</sup> Report at A-34.

there are at least three other Canadian firms that export limousines to the United States.<sup>22/</sup> The Commission has not obtained information as to the sales of these other firms in their home markets. We therefore must lower the degree of confidence we place in factual inferences respecting the degree to which prices have been lowered domestically as a consequence of the alleged dumping. If we assume that sales in the United States constitute a comparable percentage of the combined home and U.S. sales of A.H.A.'s Canadian competitors (by no means a necessarily correct assumption), then we may infer that the LTFV sales by Respondent alone did relatively little to lower domestic prices in the United States. Obviously, we should not be forced to rely on such assumptions to fill gaps in the evidentiary record when reaching final determinations. Undoubtedly the Commission staff will be able to collect information on the export and home market sales of the remainder of the Canadian limousine industry in the event final investigations in this matter occur.

Petitioner has also alleged the existence of subsidization of exports of the subject imports by the Canadian government. However, it has failed to provide the Commission with any estimates whatever of the magnitude of the alleged subsidization. The record is similarly devoid of other evidence respecting the magnitude of the subsidies at issue here, leaving the Commission in the awkward position of attempting to determine the effects of subsidies of unknown magnitude. Until the Commerce Department has spoken, therefore, the Commission is without any evidence whatever, indeed not even Petitioner's own assertions, about the magnitude of the alleged subsidies. Given the absence of evidence to the contrary, it is difficult to conclude

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<sup>22/</sup> Report at A-34-35.

that the alleged subsidies are not of sufficient magnitude that subsidized imports of the subject imports might reasonably be causing injury to the domestic industry. Obviously, this evidentiary issue will be fully resolved should this matter proceed to final investigations, as it is the Commerce Department's statutory responsibility to determine the magnitude of the subsidy margins.

#### B. Effects on Domestic Prices and Sales

The second part of the Title VII inquiry concerns the effect of apparent changes in the market for the subject imports on prices and, correspondingly, on sales, of the domestic like product. For any given change in the price of the subject imports, we must reach some conclusion about the effect of that price change on the prices and sales of the domestic like products with which those imports compete. Critical to this inquiry is the degree to which American consumers treat the subject imports as competitive with the domestically-made like product or, absent a like product, the products "most similar in characteristics and uses" to those imports.<sup>23/</sup> In these investigations, the record cannot support firm conclusions respecting the degree of competition between domestically produced limousines and imported limousines subsidized or sold at LTFV, and, hence, cannot support firm conclusions as to the imports' effects on domestic products' prices and sales.

Two facts point up the deficiency of the current record. First, although the vast majority of limousines, both domestic and imported, are built from

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<sup>23/</sup> 19 U.S.C. § 1677(10) defines the domestic like product as that which is "like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."

identical chassis and certain lengths and types of trim have become standard in the industry, the staff has identified a large number of product characteristics that vary significantly in limousines from different coachbuilders. These include quality differences between the same items of standard or optional equipment, the inclusion or exclusion of extended service warranties in transaction price comparisons, and terms offered to purchasers.<sup>24/</sup> Staff apparently has not been able to investigate satisfactorily the importance of such factors in the competition between domestic and imported limousines.<sup>25/</sup>

Second, price information respecting similar imported and domestic models, which among other things may suggest the degree to which American consumers treat these competing products as equivalent, is of peculiarly little use here. One source of difficulty is that imported and domestic models may be distributed through different channels; it appears that Respondent A.H.A. may sell at lower prices in part because some of their sales are to distributors, who might bear a portion of the total cost of distribution, while the sales of domestic producers are directly to dealers or end users who do not bear such costs.<sup>26/</sup> Similarly, there is uncertainty at this time as to the treatment of rebates by competing limousine manufacturers; those rebates may or may not be passed through to the coachbuilder or to the ultimate purchaser of the limousine, with obvious effects on the comparability of selling prices.<sup>27/</sup> Also, optional equipment

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<sup>24/</sup> Report at A-43.

<sup>25/</sup> Id.

<sup>26/</sup> Report at A-43.

<sup>27/</sup> Id.

may or may not be included in specific domestic or import transaction price data; without itemized prices for such equipment, the direct comparability of competing models is reduced. The importance of such factors to the prices of the imported and domestic products, essentially unexplored by Commission staff in the short time permitted for preliminary investigations, is important to the determination of the effect of unfair trade practices by importers on the sales of apparently-competitive domestic products.

In this context, the Petitioner's allegations of price and sales effects cannot adequately be addressed on the current record. Petitioner has listed a large number of instances of lost revenue which it attributes to the competition of LTFV Canadian imports. Although some of these instances involve alleged lost sales, many of them involve instead sales made at reduced prices, assertedly lowered in response to the lower price of the imported products. Oddly, however, many such sales nevertheless occurred at prices substantially in excess of the price at which the Canadian import was offered.<sup>28/</sup> If price alone distinguished comparable domestic and imported models, there would seem to be little reason that domestic products could continue to make sales at a price premium above the imports.<sup>29/</sup> It is possible that domestic producers lowered prices to compete with imports and still commanded a premium because the models they sold were more valued by consumers, because those models had more attractive features or better sales terms than imports. It is possible that consumers were unaware of the availability of lower-priced imports and paid higher prices for identical limousines out of ignorance; but this explanation would not square with

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<sup>28/</sup> See, e.g., Report at A-45-47.

<sup>29/</sup> See Report at A-45-46.

Petitioner's assertion that import competition forced domestic producers to lower prices for sales they continued to make at a premium above imports. It is reasonable to conclude that competition from subsidized or LTFV imports may have depressed domestic products prices; but it cannot be said on the basis of the record before us that the domestic price premium is necessarily evidence that identical imported models have meaningfully undersold domestic models,<sup>30/</sup> nor can it be said that the price information we have necessarily shows any particular causal relationship between the subject imports and prices of domestic products.

The point here is not that lost revenue allegations cannot provide the basis for a proper factual inference regarding price effects of alleged unfairly traded imports. Rather, the point is simply that lost revenue allegations must be interpreted with great care. Price is only one of the variables that determines the choice among suppliers.<sup>31/</sup> Nevertheless price is likely to play an important role in the competition among alternative luxury automotive products. Limousines obviously are perceived by consumers as luxury items, and indeed are demanded precisely for their luxury characteristics. Because of the luxury quality of these products, the demand for limousines is likely to be rather responsive to price. It must also be noted that the proliferation in the United States of so-called "black cars" (cars built on chassis identical to that used for limousines but not cut and extended in the manner characteristic of limousines) as alternatives to limousines, and the increased availability of used or almost new limousines, provide readily available substitutes for newly manufactured limousines.

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<sup>30/</sup> Views of the Commission, supra, at 16.

<sup>31/</sup> Report at A-37-38.

These further increase the sensitivity of the U.S. demand for new limousines to their prices.<sup>32/</sup> There is therefore reason to believe that any downward price pressure exerted by the unfair trade practices alleged might well have increased the overall demand for new limousines, an effect which obviously would tend to lessen any injury caused by the Canadians' price reductions. The fact that the quantity of limousines sold in the U.S. has declined in recent years, in part in response to the stock market crash of 1987,<sup>33/</sup> in no way demonstrates the contrary, as the drop in demand might well have been greater had decreases in price not occurred. In such a declining market, furthermore, price reductions might have occurred even without Canadian competition.

The evidence before us, however, is not sufficient to allow a reliable evaluation of the degree to which each of these effects occurred and, ultimately, of the degree to which the alleged unfairly traded imports reduced domestic prices and sales. The record is arguably consistent with an inference that the alleged unfair trade practices have caused sufficient loss of revenue to the domestic industry to materially injure that industry, even though it is more strongly consistent with the view that such price competition has been of little relevance to the economic well-being of the domestic limousine industry.

### C. Investment and Employment

The third inquiry to which the governing statute directs our attention is evaluation of the effects that sales of LTFV imports have had on both the

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<sup>32/</sup> See Respondent A.H.A.'s Postconference brief at 16-17.

<sup>33/</sup> See Report at A-11, Tr. at 42-43.

labor employed in the domestic industry and on the capital invested in that industry.<sup>34/</sup> The statute directs our attention to "the impact of imports of such merchandise on domestic producers of like products,"<sup>35/</sup> and in particular to the financial condition and employment situation of the domestic industry.<sup>36/</sup> Again, the evidence does not yet permit a definitive opinion as to whether the alleged unfair trade practices have resulted in material injury to the domestic limousine industry.

Central to this conclusion has been the very poor response rate by the domestic industry to the Commission's questionnaires. Of the 29 U.S. producers sent questionnaires, only [ \* ] provided usable industry data, and of that [ \* ] only [ \* ] provided usable financial data.<sup>37/</sup> It goes without saying that the unwillingness of the domestic industry to take the time to provide the Commission with information essential to establish the nature of the industry's financial condition and employment situation would normally raise a concern either that the industry regards itself as unlikely to satisfy the Commission's normal criteria for the provision of relief, or that the remedy sought is not sufficiently important to the domestic industry to justify the time necessary to answer the questionnaires.

It is also possible that the industry's response rate may have been affected by the actions of Respondent's employee in discouraging response by members of the domestic industry. Given the sharp reaction by the Commission

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<sup>34/</sup> 3.5 Inch Microdisks from Japan, Inv. No. 7310-TA-389 (Preliminary) (additional Views of Commissioner Cass), at 71.

<sup>35/</sup> 19 U.S.C. § 1677(7)(B)(III).

<sup>36/</sup> 19 U.S.C. § 1677(C)(iii).

<sup>37/</sup> Report at A-11, 18, 25.

to these actions,<sup>38/</sup> and given the assurances of Respondent that no such interference will occur in the future,<sup>39/</sup> we may assume that the effects of these actions will not be present in the responses of the domestic industry to questionnaires sent out in any final investigation. We must also assure that the Commission staff inform members of the domestic industry of the incorrectness of Mr. Hensley's statements and of the potential consequences of their own failure to respond to our inquiries. However, we must at this time recognize that we lack sufficient information to assess the nature of whatever injury an assumed decline in demand for the domestic product may have caused the industry which produces that product.

Looking only at data that is available in this industry, both employment in and the financial indicators for the industry defined above have fluctuated substantially over the period of investigation. With respect to employment, the average number of production and related workers producing limousines in the domestic industry rose by 19% between 1986 and 1987, and then fell by 17% in 1988.<sup>40/</sup> Hours worked by such workers rose by 19% from 1986 to 1987, and fell by some 15% in 1988.<sup>41/</sup> Total compensation to production and related workers in this industry also increased by 19% from 1986 to 1987, and fell by some 14% between 1987 and 1988.<sup>42/</sup> Financial performance also fluctuated, but in a different pattern. Aggregate net sales

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<sup>38/</sup> See Views of the Commission, *supra*, at 9.

<sup>39/</sup> Tr. at 116-18 (testimony of Mr. Stein); Post-Conference Br. of Respondent A.H.A., at 30.

<sup>40/</sup> Report at A-24.

<sup>41/</sup> *Id.*

<sup>42/</sup> *Id.*

fell 8% from 1986 to 1987, and operating income fell by 8% over that period. Net sales then rose by some 43% between 1987 and 1988, while operating income rose by some 25% over that period.<sup>43/</sup> The return on book value of the assets of the industry followed a similar pattern over the period of investigation.<sup>44/</sup>

While the evidence that the domestic limousine industry is suffering financial difficulties is thus ambiguous at best, that should not of course be confused with an absence of material injury from the dumping and subsidization alleged to have occurred.<sup>45/</sup> Nevertheless, there is some basis for skepticism that the industry has suffered the material injury contemplated by law. As Respondents have urged<sup>46/</sup> and Petitioner has agreed,<sup>47/</sup> the contraction of the limousine industry occurred for a variety of reasons clearly unrelated to any business practices of Respondents. According to Petitioner, the stock market crash of 1987 had substantial impact on the market for limousines.<sup>48/</sup> Furthermore, the market for new limousines appears to be in a temporary lull in anticipation of model changes expected for the 1990 Lincoln Town Car.<sup>49/</sup>

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<sup>43/</sup> Report at A-26.

<sup>44/</sup> Report at A-29.

<sup>45/</sup> See Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Preliminary), USITC Pub. 2081 (May 1988) (Additional Views of Commissioner Cass).

<sup>46/</sup> Respondent A.H.A.'s postconference Br. at 16-17.

<sup>47/</sup> Tr. at 14-15.

<sup>48/</sup> Id.

<sup>49/</sup> Id.

Even so, the domestic industry's performance has not declined so much as the decline in U.S. consumption might presage. As noted above, the industry has continued to show healthy performance in a number of critical parameters. This might suggest that the sales of imports have not had a major deleterious impact on the domestic industry's fortunes.

Even without such a correlation, the industry's performance might incline us toward a negative determination given the relation of industry performance to the quantum of injury necessary to satisfy the statutory standard. I have indicated elsewhere that where industry performance is declining the materiality standard might be satisfied by a lower quantum of injury to the domestic industry by reason of LTFV imports than where industry performance is improving.<sup>50/</sup> Where, however, industry trends are not negative, as here, a higher level of injury might reasonably be required. Consequently, even though some injury by reason of LTFV imports is arguable, and even though it might be at the margin of materiality under some circumstances, a Commissioner might make a negative judgment, concluding that the injury is not material under all the circumstances of a particular investigation. In the instant investigations, however, given the ambiguous character of the effects suggested by the evidence of record and the relatively low evidentiary standard applied in preliminary determinations, I believe that there is a reasonable indication of material injury from the allegedly subsidized or LTFV imports. The weight of the evidence certainly does not establish the existence of such injury from these imports, and were

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<sup>50/</sup> Certain Brass Sheet and Strip from Japan and the Netherlands, Invs. Nos. 731-TA-379 and 380 (Final), USITC Pub. 2099 (July 1988) (Dissenting Views of Commissioner Cass), at 76; Nitrile Rubber from Japan, Inv. No. 731-TA-385 (Final), USITC Pub. 2090 (June 1988) (Additional Views of Commissioner Cass) at 48-49.

this a final investigation I could not reach an affirmative determination. In a preliminary investigation, a mere preponderance of evidence on each of the ambiguous or disputed factual issues will not support a negative decision; a different standard is used and here an affirmative judgement must be reached.

#### Conclusion

For the reasons stated above, I determine there exists a reasonable indication of material injury to a domestic industry by reason of alleged LTFV or subsidized imports of limousines from Canada.

## INFORMATION OBTAINED IN THE INVESTIGATIONS

## Introduction

On July 24, 1989, petitions were filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by Southampton Coachworks, Ltd., Farmingdale, NY, on behalf of U.S. manufacturers of limousines. The petition alleges that an industry in the United States is materially injured and threatened with material injury by reason of imports from Canada of limousines<sup>1</sup> that are being subsidized by the Canadian Government and are also being sold in the United States at less than fair value (LTFV). Accordingly, effective July 24, 1989, the Commission instituted countervailing duty and antidumping investigations Nos. 701-TA-300 (Preliminary) and 731-TA-438 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671 b(a) and 1673 b(a)) (the act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

The statute directs the Commission to make its preliminary determinations within 45 days after receipt of a petition or, in these cases, by September 7, 1989. Notice of the institution of these investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 2, 1989 (54 F.R. 31897). Commerce published its notice of initiation in the Federal Register of August 22, 1989.<sup>2</sup> The Commission held the public conference on August 15, 1989, at which time all interested parties were allowed to present information and data for consideration by the Commission.<sup>3</sup> The Commission voted on these investigations on August 30, 1989.

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<sup>1</sup> For the purposes of these investigations, the term "limousines" is defined as extended wheelbase and expanded seating capacity motor vehicles, which are principally designed for the transport of persons. Such limousines are built on a six or eight cylinder gasoline-engine-powered chassis (e.g., Lincoln Town Car, Mercury Grand Marquis, and Cadillac Brougham) and employ a spark-ignition internal combustion reciprocating piston engine with a cylinder capacity exceeding 1,500 cubic centimeters. If imported, limousines are provided for in subheadings 8703.23.00, 8703.24.00, and 9802.00.50 of the Harmonized Tariff Schedule of the United States (HTS) (statistical reporting numbers 8703.23.0075, 8703.24.0075, and 9802.00.5040).

<sup>2</sup> Copies of the Commission's and Commerce's Federal Register notices are presented in app. A.

<sup>3</sup> A list of witnesses who appeared at the conference is presented in app. B.

## The Product

Description and uses

A limousine is defined for the purposes of these investigations as an extended wheelbase and expanded seating capacity motor vehicle, which is principally designed for the transport of persons. Such limousines are built on a six or eight cylinder gasoline-engine-powered chassis and employ a spark-ignition internal combustion reciprocating piston engine with a cylinder capacity exceeding 1,500 cubic centimeters.<sup>4</sup> In the United States and Canada, limousines are generally made from the Lincoln Town Car, or to a much lesser extent, the Cadillac Brougham,<sup>5</sup> and generally have a wheelbase that is extended by approximately 60 inches.<sup>6</sup>

Limousines, produced by modifying luxury automobiles, generally have passenger accessories rarely used on other automobiles. For example, many limousines have various combinations of passenger-operated accessories such as stereos, televisions, beverage bars, separate air-conditioning units, intercoms (for driver-passenger communication), moon or sun roofs, cabinets, and partitions (for privacy) between the driver compartment and the passenger compartment. Interior materials are often upgraded with leather, crystal, and wood to provide a more luxurious atmosphere. Limousines are customarily driven by a chauffeur because the vehicle's unique characteristics and amenities are almost entirely designed for use by rear-seated passengers.

There is a significant amount of product differentiation within the limousine industry, based on the primary type of use for which the vehicle is intended. Although there are widely-used industry terms for the various types of limousines, the terms lack precise definitions and frequently have different meanings among industry officials. Limousines with wheelbases extended by approximately 60 inches or more and containing extensive luxury and entertainment accessories are frequently referred to as "VIP limousines." Limousines without the entertaining luxury features (such as televisions and beverage bars) found on VIP limousines are referred to as "people movers" because their primary function is to transport people. Moreover, "funeral cars" are limousines designed for use at funerals. These limousines are similar to people movers, but usually have six doors (versus four doors) and a

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<sup>4</sup> Most limousines sold in the United States have relatively large (approximately 5 liter) V-8 engines. There are a small number of vehicles that do not have expanded seating capacity but otherwise conform to this definition. (Transcript of the conference, p. 138).

<sup>5</sup> Industry officials indicate that the Lincoln Town Car is used to make approximately 80 percent of all limousines sold in the United States. (Transcript of the conference, p. 55, and USITC staff interview with \* \* \*).

<sup>6</sup> Some vehicles that are considered to be limousines based on the definition used in these investigations have wheelbases that are extended less than 60 inches. Additionally, some limousines have wheelbases that are extended by over 100 inches. Such vehicles account for a relatively small share of the limousine market.

forward-facing middle bench seat, and are often extended by less than 60 inches.

In contrast to the limousines defined above, limousines with wheelbases extended typically less than 40 inches, with few luxury or entertainment features, are sometimes loosely referred to as "formal cars" (or "formals").<sup>7</sup> Expanded seating in these vehicles often consists of small, fold-down rear jump seats.

Limousines are most often sold to limousine services (liveries), businesses, or wealthy individuals. The vehicles are frequently rented from limousine services for transportation to and from formal social events such as weddings, dances, parties, and funerals. Limousines also are purchased, often by businesses or wealthy individuals, who want a prestigious or comfortable mode of transportation or the ability to conduct business activities while being transported.

### Substitute products

There are no products that are entirely substitutable for limousines. Limousines generally have additional seating capacity, luxury features, and a prestigious social image, the combination of which is not matched by other automobiles.

Interviews with industry officials suggest that to a limited extent, "formal sedans" and so-called "black cars" may compete with limousines, and may be capturing a growing share of the limousine market.<sup>8</sup> These widely-used terms lack a standard and unambiguous definition, and their meanings vary within the industry. The terms can only be used in a very general sense, and with the understanding that their meanings are extremely imprecise.

Formal sedans are luxury automobiles that frequently have been customized (often by limousine producers), usually in terms of relatively limited cosmetic changes to the exterior and interior of the vehicle. For example, a typical formal sedan might have a modified rear window, additional chrome trim, additional interior lighting, and a small fold-down desk. Despite some similarities between formal sedans and limousines, formal sedans generally cost only 50 to 60 percent as much as a limousine.<sup>9</sup>

Formal sedans are often purchased by limousine services that want a normal- (or near-normal) sized luxury car that is cosmetically consistent with their limousine fleet. Some formal sedans are used by businesses or private

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<sup>7</sup> This term, although commonly used, has a particularly wide range of meanings within the industry, and should be used cautiously.

<sup>8</sup> Transcript of the conference, pp. 96-7, 108, 138, and interview with \* \* \*.

<sup>9</sup> Transcript of the conference, p. 115. Formal sedans are used by livery operators principally to provide lower cost "limo" service to and from airports.

individuals that want a luxury automobile without the conspicuous or extravagant appearance of a large limousine.

"Black cars" are defined strictly by their use rather than by any unique characteristic of the vehicle. These vehicles are unaltered luxury automobiles (such as Lincoln Town Cars or Cadillacs) operated by establishments with limousine licenses.<sup>10</sup> Such establishments rent these chauffeur-driven vehicles to customers who do not want to rent a limousine, but prefer to ride in a car more luxurious than a taxi. Although these automobiles lack characteristics of limousines, interviews with industry officials suggest that they are gaining increased use for roles sometimes served by limousines.

### Manufacturing process

The manufacturing process for limousines consists of approximately seven stages, and is basically the same for limousine producers in both the United States and Canada. The stages are as follows: stripping the exterior trim and interior components; cutting the vehicle in two; extending the vehicle the desired length; painting; interior finishing; exterior finishing; and upgrading the vehicle suspension. Figure 1 illustrates basic exterior modifications involved in converting a car into a limousine.

Limousine producers often purchase new vehicles, usually Lincoln Town Cars, or less often, Cadillac Broughams, from automobile dealers.<sup>11</sup> Producers generally have a small supply of new vehicles on hand to be converted into limousines, rather than purchasing a vehicle after a customer places an order. The automobiles usually are equipped with relatively large (approximately 5 liter) V-8 engines. The producers tend to rely primarily or entirely on one model of automobile for conversion into a limousine, although some producers fill special orders for limousines made from automobiles rarely used for that purpose. Limousine producers usually purchase vehicles with what is referred to as the "delete trim option." These vehicles are shipped from the manufacturer without certain trim items (such as a vinyl covering on the roof), and with additional heavy-duty engine and suspension features.

The use of Cadillacs by limousine producers has decreased in recent years for several reasons. Some limousine producers began discovering quality problems with Cadillacs, which made the producers reluctant to convert the vehicles to limousines.<sup>12</sup> Cadillac also reduced the size of the engines it installed in its cars, leaving them under-powered in the opinion of many limousine producers. In addition, for at least some limousine producers, Cadillac eliminated price reductions for purchases of bulk parts by limousine

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<sup>10</sup> The term "black car" originated in New York City, where they are most widely used. The automobiles are usually painted a dark color.

<sup>11</sup> On occasion, some limousine producers may convert customer-supplied chassis.

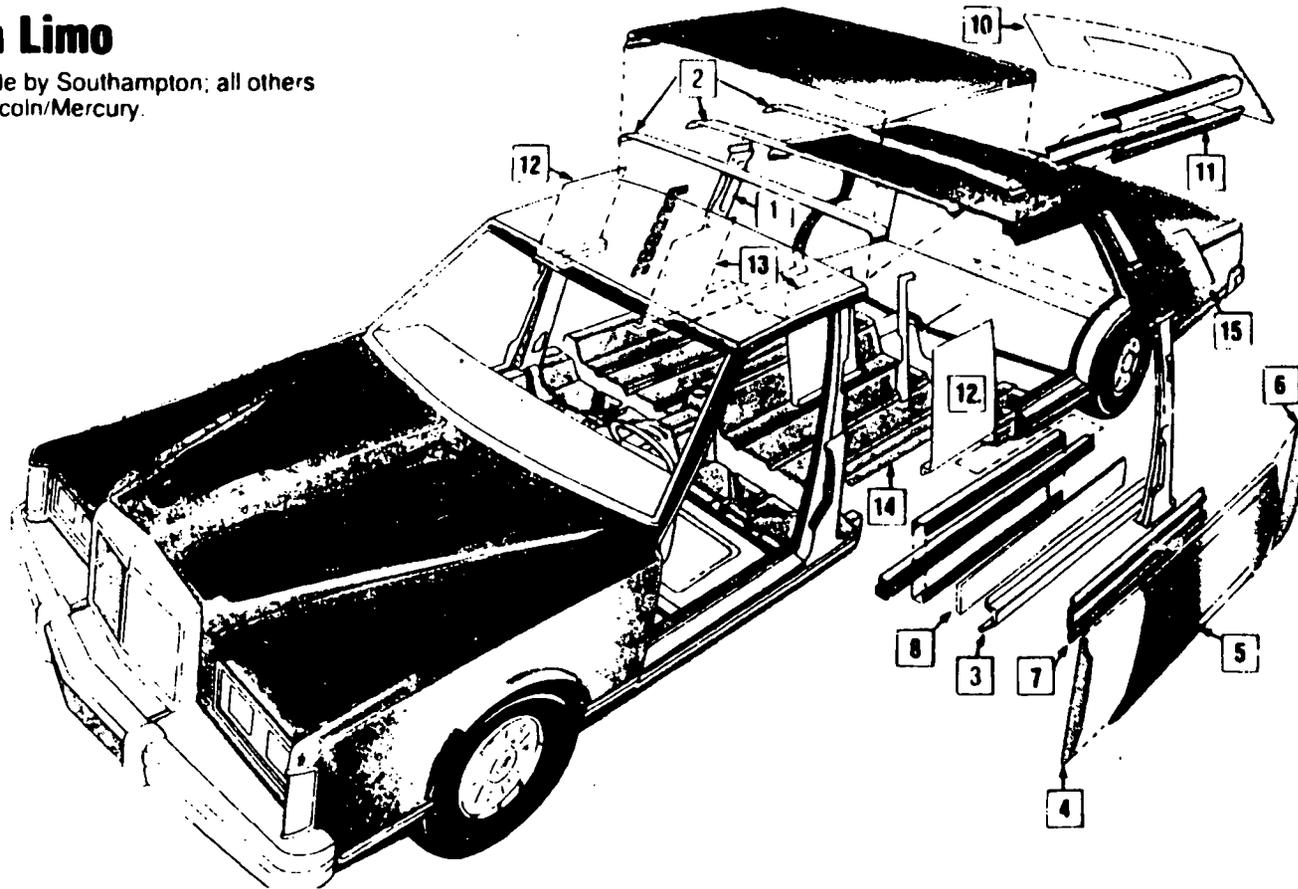
<sup>12</sup> Transcript of the conference, p. 55.

Figure 1.--

## A Car Becomes a Limo

Parts listed in boldface are made by Southampton; all others are original equipment from Lincoln/Mercury.

- 1 Door post
- 2 Roof bow
- 3 Rocker panel
- 4 Front bulkhead
- 5 Side panel skins
- 6 Rear bulkhead
- 7 Crash rail
- 8 Rocker panel flat
- 9 Roof panel
- 10 Reducer (to make back window smaller; purchased from outside supplier)
- 11 Upper frame assembly
- 12 Center post cover
- 13 Inner post cover
- 14 Floor
- 15 Opera window cover



Source: Newsday, March 9, 1987.

producers. However, Cadillac has recently increased the size of its engines and restored price reductions on bulk parts orders; thus, limousine producers may increase their use of Cadillacs.<sup>13</sup>

Stripping.--When the model arrives at the producer's plant, it must be stripped of exterior and interior trim and accessories. Those items that will be eventually used on the limousine are stored for reattachment at a later stage.

Cutting.--The vehicle is then cut approximately in half, although some models of limousines require that several cuts be made through the vehicle. In addition to cutting the body and frame of the vehicle, the exhaust pipes, drive shaft, fuel line, brake lines and brake cable, electrical wiring, and floorboard must also be cut or removed to allow complete separation of both halves (or the various segments) of the vehicle.

Extension.--After cutting, the separate portions of the vehicle are joined by welding the frame together using an extension of the desired length placed between the two original halves of the frame. The frame (and thus the wheelbase and the overall length of the vehicle) is most often extended by about 60 inches, although occasionally some limousines are extended up to, and even beyond, 100 inches. Conversely, although extensions of less than 40 inches are not common, some limousines are extended by 24 inches or less.

Once the frame is rejoined, new body panels of an appropriate length are welded to the vehicle, as are door posts and floor pans.<sup>14</sup> The extended drive shaft, exhaust pipes, fuel line, brake lines and cables, and electrical wiring are also attached.<sup>15</sup>

Painting.--Once the limousine is extended and the new body panels are attached and precisely finished to match the original body panels, the vehicle is prepared for painting. Producers often have one or more "paint booths" within which the painting operation is performed. These booths provide a favorable environment for the painting operation by controlling such factors as temperature and air cleanliness. Additionally, the booths have furnaces that allow the paint to be baked onto the vehicle (commonly at temperatures near 160 degrees fahrenheit, for 45 minutes), thus speeding the curing process of the paint. After the vehicle is painted, it may be wet sanded and waxed for a more lustrous finish.

Interior finishing.--At the interior trim station, the vehicle receives the interior components and accessories. These items include not only seats,

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<sup>13</sup> Interview with \* \* \*.

<sup>14</sup> At this stage of the production process, the vehicle may also be widened by attaching body panels that increase the width of the car. There are only several U.S. limousine producers that perform this alteration.

<sup>15</sup> Larger limousine producers often fabricate many of their own body panels, interior components, and electrical components, whereas smaller producers rely more heavily on suppliers for such items.

carpet, and cosmetic trim, but also major accessories such as televisions, stereos, cabinets, and wet bars.

Exterior finishing.--At the exterior trim station, parts such as chrome items and vinyl tops are installed. The wiring harnesses may also be installed on the vehicle, and the vehicle may undergo simulated exposure to rain in order to identify any leaks.

Suspension upgrade and alignment.--Limousine producers frequently replace the stock suspension springs, shocks, and tires to accommodate the added weight of the new vehicle, and to provide the desired ride characteristics. The front suspension is then aligned, and the vehicle is ready for delivery to the customer.

### U.S. tariff treatment

Limousines are classified in subheadings 8703.23.00, 8703.24.00, and 9802.00.50 of the Harmonized Tariff Schedule of the United States (HTS).<sup>16</sup> HTS subheadings 8703.23.00 and 8703.24.00 cover motor cars and other motor vehicles (other than those of heading 8702) principally designed for the transport of persons, including station wagons and race cars. The subheadings apply specifically to such vehicles with engines having more than 6 cylinders and a total combined cylinder capacity exceeding 1,500 cubic centimeters (cc). Provisions of subchapter II of HTS chapter 98 cover articles returned to the United States after having been exported to be advanced in value or improved in condition by any process of manufacturing or other means. The column 1-general rate of duty for these subheadings is 2.5 percent ad valorem.<sup>17</sup> The column 2-rate of duty is 10 percent, and is applicable to products of those Communist countries and areas specified in general note 3(b) of the HTS.<sup>18</sup> Under the Canada-United States Free-Trade Agreement, imports of eligible goods covered by HTS subheadings 8703.23.00, 8703.24.00, and 9802.00.50 from Canada enter the United States free of duty, effective January 1, 1989.

### The Nature and Extent of Alleged Subsidies

The petitioner alleges that limousine manufacturers in Canada receive benefits provided by federal and provincial governments that constitute subsidies within the meaning of the countervailing duty law. On the federal

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<sup>16</sup> Prior to 1988, limousines were reported for statistical purposes under items 692.1015, 692.1030, and 806.2040 of the Tariff Schedules of the United States Annotated (TSUSA).

<sup>17</sup> For HTS subheading 9802.00.50, the 2.5 percent ad valorem tariff applies only to the value of the alterations made to the product outside the United States.

<sup>18</sup> For HTS subheading 9802.00.50, the 10 percent ad valorem tariff applies only to the value of the alterations made to the product outside the United States.

level, the petitioner named eight subsidy programs provided by the Government of Canada. Commerce has reviewed the petitioner's allegations and has initiated an investigation on the following five alleged federal programs:

- Investment Tax Credits over and above the basic rate of 7 percent.
- Regional Development Incentive Program (RDIP) and Industrial and Regional Development Program (IRDP).
- Enterprise Development Program (EDP).
- Promotional Projects Program (PPP).
- Program for Export Market Development (PEMD).

The petitioner further alleges that critical circumstances exist within the meaning of section 703(e)(1) of the act.

#### The Nature and Extent of Alleged Sales at LTFV

In comparing U.S. and Canadian prices, the petitioner alleges that limousines from Canada are being sold in the United States at LTFV margins ranging from 19.37 percent to 24.35 percent.<sup>19</sup> These margins were calculated by examining three models of limousines manufactured in Canada.<sup>20</sup> In calculating estimated dumping margins on limousines, the petitioner compared the actual best price offered in U.S. dollars to dealers in the U.S. market with the actual best price offered in U.S. dollars to dealers in Canada, making necessary adjustments for shipping costs. The petitioner also alleges that additional price reductions are offered to U.S. dealers in the form of rebates, reimbursements for showroom and/or service facility rental and staffing expenses, and reimbursements for selling/marketing expenses.<sup>21</sup> Finally, the petitioner alleges the existence of critical circumstances within the meaning of section 733(e)(1) of the act.

#### The U.S. Market

##### Background

The concept of custom coachbuilders creating special bodies on existing chassis has been in existence since the birth of the automobile industry. In the early 1960s, the Lincoln-Mercury Division of Ford Motor Co. (Ford) began working with Peterson, a Chicago-based firm, in cutting and stretching Lincoln Sedans into stretch limousines. Throughout the decade, approximately 40 to 60 of these stretched Lincoln Sedan limousines were sold each year. Andy Hotton Associates, a predecessor corporation of A.H.A. Automotive Technologies Corp.

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<sup>19</sup> Commerce recalculated the margins to range from 21.14 percent to 25.20 percent.

<sup>20</sup> The three models are standard 60" extensions of the Lincoln Town Car, the Mercury Grand Marquis, and a customer chassis. All of the selected models are manufactured by A.H.A. Manufacturing, Ltd. Petition, p. 13.

<sup>21</sup> Petition, p. 13.

originally based in Bellville, MI, manufactured an extended wheelbase Lincoln Town Car limousine for the New York World's Fair in 1964 and converted approximately 300 Ford and Mercury automobiles into limousines in 1965 and 1966 for the Ford and Mercury limousine program.

More recently, the remaining two of the "Big Three" automakers have experimented with the manufacture of extended wheelbase limousines. The Cadillac Division of General Motors Corp. (GM) in Detroit produced a factory formal limousine designed to serve the people-moving professions, and Chrysler Corp. applied Italian-produced bodies to the Crown Imperial extended wheelbase chassis. Although all of the "Big Three" automakers have shown varying amounts of interest in the limousine industry, it is believed that none presently fully manufacture extended wheelbase limousines.

By the early 1970s, there were approximately 6 to 10 limousine manufacturers in North America producing roughly 500 units each year. These companies included Moloney, Bradford, Allen, Andy Hotton Associates, and other smaller, regional manufacturers.

The emphasis for the period prior to the late 1970s was on the custom-made vehicle serving the wealthy individual; however, the late 1970s and early 1980s exhibited signs of change. The limousine was no longer seen as primarily the wealthy individual's toy, and a shift away from the custom-made limousine toward a more standard product was made. Market expansion characterized the limousine industry. The demand for chauffeur-driven limousines increased in urban centers due to many factors, including traffic congestion, parking difficulties, the poor condition of taxicabs, and stiffer penalties and more rigid enforcement of drunk driving laws. In addition, with the increased wealth of the middle class, the limousine became a somewhat more affordable mode of transportation.

These factors served as a catalyst in the growth of the livery service in the late 1970s and the 1980s, resulting in an increased demand for limousines during that period. Limousine manufacturers multiplied as spin-off operations were created by members of established limousine builders.<sup>22</sup> Rapid expansion and profitability accurately describe the "boom years" of the 1986 and 1987 limousine industry.

The depressed demand for limousines from 1988 to the present may be attributable to many factors, one of the most salient being the October 1987 stock market crash, which seemed to herald a sluggish period for the limousine industry. The trend may also be explained, in part, by the closure of a number of livery services and the subsequent increased supply of used limousines in the secondary market. In addition, it has been suggested that a shift in consumer preferences from new limousines to used limousines and less expensive sedans may have been a contributing factor. Moreover, time-in-use before replacement has increased from 2 years to 3 or 4 years, creating a stretch in the time cycle of demand. Finally, the Lincoln Town Car, which has been the most popular base chassis for limousine builders for the past 6 years, has been substantially redesigned for the 1990 model year. The anticipated arrival of the 1990 model Lincoln Town Car, the first major

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redesign of the base body since 1980, and the fear of owning an outdated 1989 Lincoln Town Car limousine may have negatively impacted the current demand for the 1989 model limousine. In addition to the possible negative effect on current limousine sales, the introduction of the new model may adversely affect builders by forcing them to alter their manufacturing processes to compensate for changes in the exterior and interior construction of the new model limousine. Predictively, it has been suggested that these events may contribute to a pent-up demand for limousines that presages a healthy near-term future for the limousine industry. <sup>23</sup>

### Seasonality

The limousine industry is influenced by a seasonal pattern, shaped not only by the cyclical demand by end users of stretch limousines, but also by the yearly introductions of new models by the base chassis suppliers. According to industry representatives, the demand for the limousine manufacturer's product is greatest following new model changes of the base chassis (generally fall) and prior to wedding and prom seasons (spring and early summer) as livery operators prepare for these active periods. Antithetically, the demand is lowest in the periods antecedent to model changes and, often, during the winter holiday season, when many prospective buyers normally vacation. Limousine builders reportedly compensate for the seasonal variation by obtaining sufficient orders in high demand periods to tide them over the slow periods. <sup>24</sup>

### Apparent U.S. consumption

The best available data on U.S. consumption of limousines in units, as estimated by the research department of the trade publication Limousine & Chauffeur, is presented in the tabulation below: <sup>25</sup>

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<sup>23</sup> Transcript of the conference, pp. 10-16 and 102-113.

<sup>24</sup> Transcript of the conference, pp. 52 and 56-7.

<sup>25</sup> Staff was unable to calculate apparent U.S. consumption of limousines from available questionnaires due to the poor response rate by U.S. producers.

<u>Year</u>	<u>Estimated stretch limousine unit sales in the United States 1/</u>
1986.....	6,800
1987.....	7,000
1988.....	5,800
1989 forecast.....	5,800

1/ Data on sales in the United States are intended to represent exclusively stretch limousines. A source at the research department has indicated that figures estimated by the Limousine & Chauffeur Research Dept. \* \* \*. It has been suggested that data received by the Limousine & Chauffeur Research Dept. \* \* \* reflect actual realized sales of stretch limousines produced both inside and outside the United States. Yearly sales are reported according to the model year of the base unit. Per telephone conversation with \* \* \*.

These data suggest that apparent U.S. consumption of stretch limousines increased almost 3 percent from 1986 to 1987. This upward trend may be explained by the previously mentioned factors that led to the expansion of the limousine industry during the late 1970s and early 1980s. These factors seem to have created a momentum strong enough to carry the limousine industry through 1987. The decrease of over 17 percent in apparent U.S. consumption of limousines from 1987 to 1988 is believed to have been caused by (1) the October 1987 stock market crash, (2) the closure of livery services and the resulting increased supply of used limousines in the secondary market, (3) a shift in consumer preferences from new to used limousines and less expensive sedans, (4) longer time-in-use before replacement, and (5) the anticipated introduction of the 1990 Lincoln Town Car model, the first major redesign of the Lincoln Town Car base chassis since 1980. The forecast for the 1989 U.S. consumption level is that it will be approximately equal to the 1988 estimate. <sup>26</sup>

#### U.S. producers

The petitioner, Southampton Coachworks, Ltd., named 23 additional companies that are believed to manufacture limousines in the United States. The Commission sent producers' questionnaires to these and five other companies that also were believed to produce limousines in the United States during the period of investigation. \* \* \* of the 29 producers that were sent questionnaires by the Commission provided data in response to the request. <sup>27</sup>

<sup>26</sup> Per telephone conversation with \* \* \*.

<sup>27</sup> Poor response by U.S. producers may have been the result of a telephone campaign initiated by Bob Hensley, U.S. Fleet and Dealer Development Manager of A.H.A. Automotive Technologies Corp., the principal Canadian producer of limousines. For a more lengthy discussion of the events that took place in relation to this incident, see app. C. Factors that may also partially explain the poor response rate by U.S. producers include: (1) timing of the  
(continued...)

The \* \* \* firms, their locations, estimated shares of U.S. producers' 1988 domestic shipments (in percent), and positions regarding the petition are presented in the following tabulation:

<u>Producer</u>	<u>Estimated share of U.S. producers' domestic shipments</u>	<u>Position on the petition</u>	<u>Location</u>
*	*	*	*

The U.S. producers that have indicated to the Commission that they produced limousines during part or all of the period of these investigations, but have not responded to the Commission's request for data, are presented in the following tabulation:

<u>Producer</u>	<u>Estimated production per year</u>	<u>Position on the petition</u>	<u>Location</u>
*	*	*	*

As indicated by the preceding lists, U.S. producers can be characterized as small concerns, with no one company believed to account for more than \* \* \* percent of total U.S. shipments. In addition, U.S. manufacturers generally are located in or near urban areas and for the most part tend to be regional operations, although a number of the larger manufacturers serve the entire U.S. market. This is illustrated in figure 2. The industry is also characterized by the recent frequent activity of change. The Commission staff has identified numerous incidences of such change, as presented in table 1.

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<sup>27</sup> (...continued)

investigation corresponding with the Cadillac Dealers New Model Preview for limousine builders in Orlando, FL, (2) timing of the investigation corresponding with a slow-down and subsequent temporary closing of limousine manufacturing facilities, and (3) a general lack of sophisticated record-keeping and adequate staff among producers to respond to the Commission's questionnaire.

Figure 2.--Location of known U.S. producers of limousines

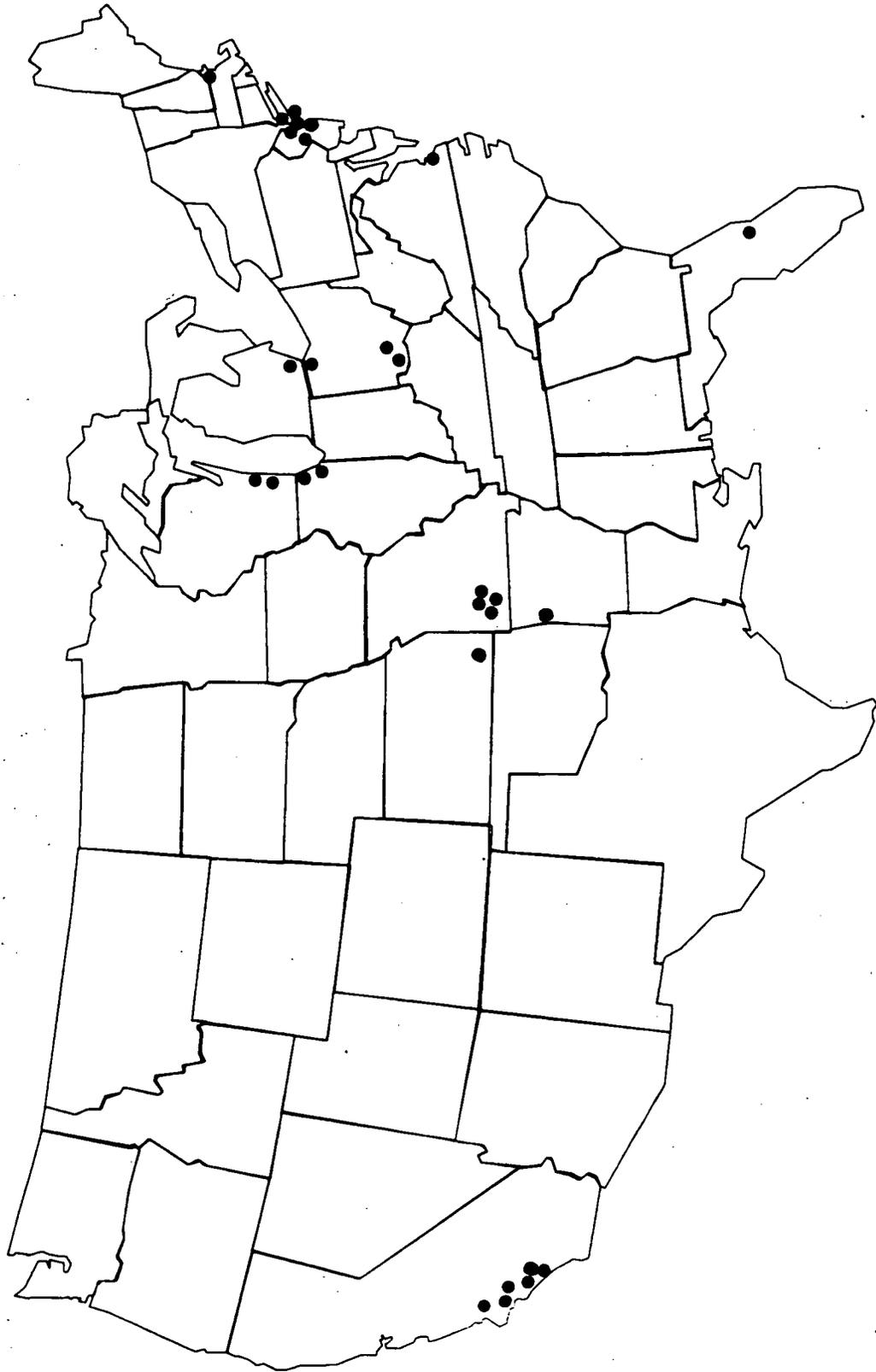


Table 1  
Limousines: Changes in the U.S. limousine industry during the period of investigation

<u>Producer</u>	<u>Event</u>	<u>Date</u>	<u>Number of employees</u>	<u>Number of cars</u>	<u>Reason for change</u>
*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Other firms that were later identified <sup>28</sup> as possible manufacturers of limousines include:

<u>Producer</u>	<u>Location</u>
*	*

U.S. importers

Twenty-four firms were named in the petition as possible importers of limousines from Canada. <sup>29</sup> The Commission sent questionnaires to each of the firms identified in the petition <sup>30</sup> and to one additional firm that was later identified as an importer of limousines under TSUS item 806.20. <sup>31</sup> It was difficult, if not impossible, to identify additional importers of limousines from Canada by means of the \* \* \*, due to the extremely large basket categories under which the subject product is recorded upon importation.

In these investigations, the firms identified in the petition as possible importers of limousines from Canada reported \* \* \*. A.H.A. provided complete data for \* \* \*. \* \* \*.

A.H.A. also provided separately the quantity and value of U.S.-bound limousines of which it is the importer of record for unrelated parties.

<sup>28</sup> Limousine & Chauffeur Fact Book.

<sup>29</sup> All firms named in the petition are members of the U.S. dealer network for A.H.A. Automotive Technologies Corp., the principal Canadian producer. According to staff calculations, A.H.A.'s exports of limousines to the United States accounted for approximately \* \* \* percent of Canadian limousine exports to the United States in 1988 and \* \* \* percent in 1989.

<sup>30</sup> \* \* \*.

<sup>31</sup> \* \* \*.

\* \* \*. Information on shipments and inventories held by unrelated parties of these imported limousines in the United States could not be determined by A.H.A. officials. <sup>32</sup>

In addition, according to A.H.A. officials, Eureka Coach Co., Ltd., Concord, Ontario, was historically \* \* \* through mid-1988, at which time the firm reportedly ceased all operating activities. <sup>33</sup>

Industry experts indicate that imports of limousines from other countries \* \* \*. <sup>34</sup> Data presented in this report are, therefore, estimated to account for \* \* \* percent of the subject imports.

### Channels of distribution

Producers and importers of stretch limousines utilize several channels of distribution in marketing such automobiles. Limousines are sold to stocking distributors, to franchised new car dealers, direct to individuals or corporate purchasers, and to limousine rental companies, the so-called "livery" operators. The latter category of purchasers accounts for the bulk of the sales volume of the petitioner and other domestic producers, and of the sales of Canadian limousines. Southampton's president estimates that sales to \* \* \* accounted for \* \* \* percent of Southampton's total sales volume in 1988, in terms of quantity and value. \* \* \* accounted for \* \* \* percent of the total, and sales to \* \* \* accounted for the remainder.

Domestic producers and the Canadian producer/importer, A.H.A., \* \* \*. \* \* \*. A.H.A., however, also has a network of eight distributors located strategically throughout the United States. Augmenting this distributor network are 17 A.H.A. dealers (see fig. 3); most are franchised Lincoln Mercury dealerships. A.H.A.'s limousine prices to distributors are \* \* \* A.H.A.'s limousine prices to dealers. In contrast, the domestic limousine producers have not created a network of distributors in the true sense of the term. The term distributor is applied by domestic coachbuilders to sales representatives or independent contractors operating in protected territories, but without a showroom, and in many cases without the financial backing to support an inventory on a floor plan basis.

Some domestic coachbuilders use a company sales force to market their limousines. \* \* \*. \* \* \*.

The domestic limousine producers' sales to dealers primarily are to either Cadillac or Lincoln-Mercury dealerships, depending on which chassis a particular producer uses. In most cases, producers require dealer loyalty to a single brand of limousine. Conference testimony revealed that domestic

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<sup>32</sup> \* \* \*.

<sup>33</sup> Respondents supplied Commission staff with a signed affidavit by T.A. McPherson, President of Eureka Coach, \* \* \*. \* \* \*.

<sup>34</sup> Per telephone conversation with \* \* \*.

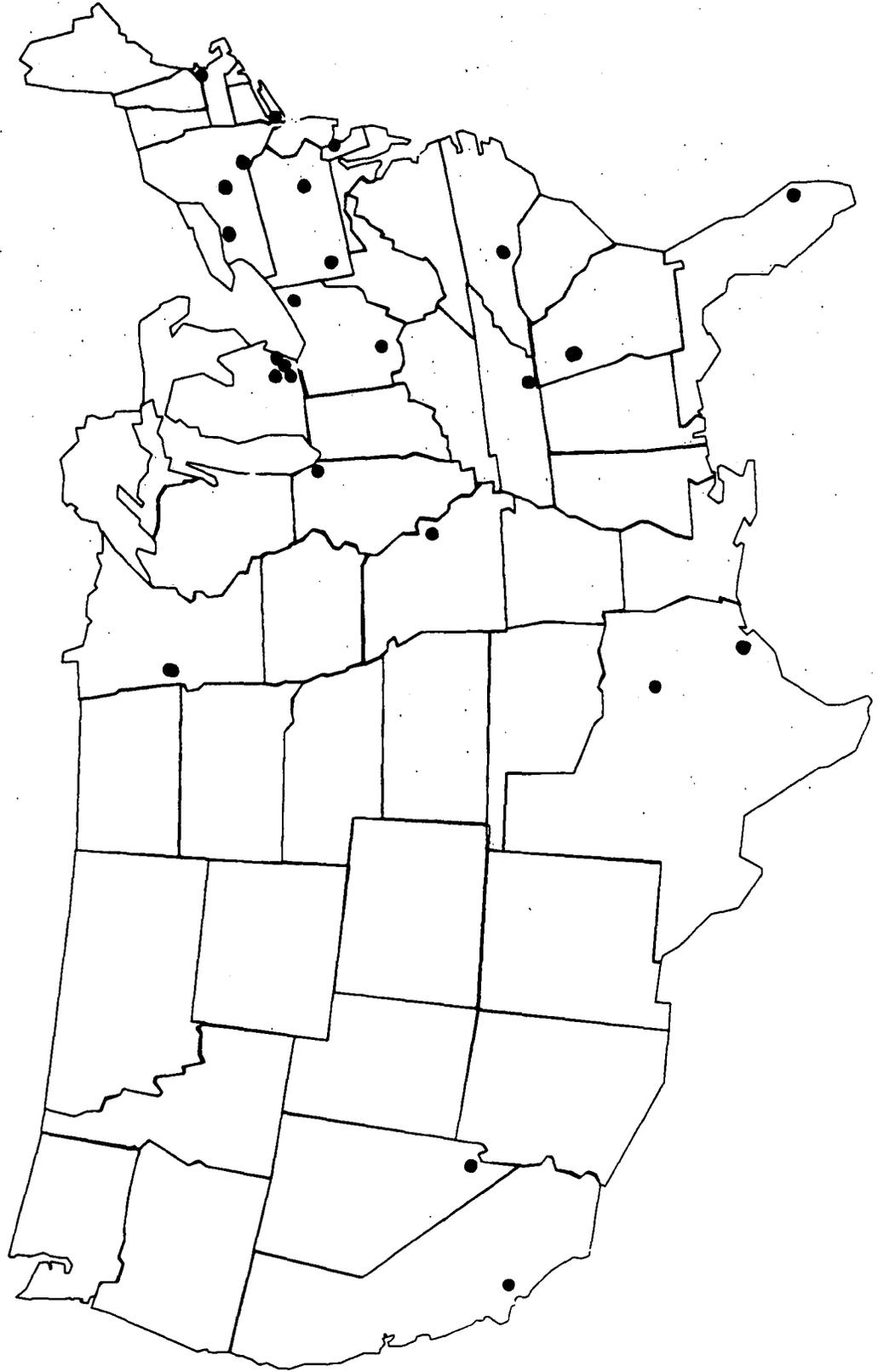


Figure 3.--A.H.A.'s U.S. distributor/dealer network

limousine builders generally do not bypass their dealer/distributor structure to get a sale. However, in areas where a particular coachbuilder has no dealers, the coachbuilder will sell direct. There also are special house accounts, usually fleet quantity, that are serviced direct by domestic coachbuilders. <sup>35</sup>

Domestic coachbuilders offer floor planning to their distributors for showroom display limousine models and, in turn, utilize the floor plans of dealers from whom they buy their Lincoln Town Car or Cadillac chassis. This floor plan policy assures domestic coachbuilders of a ready inventory of chassis to support the production and order schedules for their limousines. Floor plan costs for chassis for pre-sold limousines are passed on to distributors by some coachbuilders. Similarly, the floor plan interest cost of a limousine built on speculation and sold by a dealer or distributor also is passed on to that vendor.

A.H.A. owns or has a financial interest in \* \* \*. A.H.A.'s financial interest in these firms stems from its Dealer Development Program, a policy patterned on the same practice offered by Ford and GM in building their respective dealer networks. Such dealer assistance programs are designed to enable the dealer/distributor to reduce the financial interest of the supplier over time as the financial reserves of the dealer grow. Currently, A.H.A.'s financial interest in \* \* \*.

A.H.A.'s price sheets for limousines and optional equipment have \* \* \*. \* \* \*, in a practical sense A.H.A.'s distributors are themselves dealers in their own areas. They do not use dealers in the proximate region to their location, but sell direct to livery operators, individuals, and corporations. <sup>36</sup>

The channels of distribution picture also is clouded by the fact that both the Canadian producer/importer and the domestic manufacturers of limousines on occasion sell direct to end-user purchasers. Coachbuilders generally serve customers located in the proximate region to their location on a direct basis rather than through a dealer or distributor. Large livery firms operating a fleet of limousines as well as firms operating only a few airport limousines can buy a domestic or imported limousine direct from the domestic or Canadian producer. Service availability does give a local dealer/distributor an advantage over a distant domestic or Canadian producer that can offset to some extent the extra operating margin that a producer has with which to make a direct deal. Despite the nationwide availability of Lincoln and Cadillac dealers with automobile service facilities, A.H.A. identified the need for regional limousine service as one of the criteria that led to the distributor network A.H.A. created and, in turn, A.H.A. alleges, led to the increase in U.S. sales of A.H.A. limousines. Some domestic producers have certain geographical areas they serve with factory sales personnel rather than having dealers in those reserved areas. In regions where their dealers are located, some domestic producers will not compete with

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<sup>35</sup> \* \* \* .

<sup>36</sup> \* \* \* .

those dealers by selling direct but channel sales through the existent dealer structure in the respective dealers' areas.<sup>37</sup> As price competition and a soft market have impacted on coachbuilders' sales volume, dealer margins have narrowed and dealer networks have shrunk. Coachbuilders have increasingly bypassed the dealer to make or save a sale.

During January 1987-June 1989, other than in its own proximate region, A.H.A. sold \* \* \* volume of limousines through its distributor/dealer network. Fleet sales direct to livery operators \* \* \*. Such volume accounted for \* \* \* percent of total shipments during January-June 1989.

#### Consideration of Alleged Material Injury to an Industry in the United States

In order to gather data on the question of alleged material injury to the U.S. limousine industry, questionnaires were sent to 29 firms believed to be producers of the subject product. The petition identified 24 firms<sup>38</sup> as U.S. limousine manufacturers and indicated that, in the aggregate, these firms currently represent in excess of 90 percent of the U.S. capacity to produce the subject product. Five additional firms were also identified as limousine manufacturers and were sent questionnaires. Although the response rate to the Commission's questionnaire was poor, all of the firms believed to have produced limousines in the United States during all or part of the period under investigation were confirmed limousine manufacturers.<sup>39</sup> Additional firms were later identified as possible limousine producers during part or all of the period under investigation; however, these identifications are unconfirmed.

Of the 29 firms, \* \* \* provided usable data in response to the Commission's questionnaire; however, the usefulness of several of the questionnaire responses is limited. It is estimated that the aggregated U.S. limousine shipments of these \* \* \* firms accounted for approximately \* \* \* percent of total domestic shipments made by U.S. producers of limousines in 1988. The data presented in the tables in this section of the report are, therefore, representative of approximately \* \* \* percent of the U.S. industry.<sup>40</sup>

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<sup>37</sup> \* \* \*.

<sup>38</sup> This figure includes the petitioning firm, Southampton Coachworks, Ltd.

<sup>39</sup> \* \* \* converters did not feel that the product they manufacture, primarily funeral cars, should be included in the investigation on limousines. \* \* \* manufacturers indicated that the cars they convert are not in competition with the product manufactured by Southampton and A.H.A.

<sup>40</sup> This figure is based on the total estimated by Limousine & Chauffeur Research Dept.

\* \* \* firms failed to provide the Commission with a response in a timely fashion, and \* \* \* could only provide data for January-June 1989. <sup>41</sup> Therefore, information obtained in response to the Commission's request for data may not be representative of the U.S. industry as a whole.

#### U.S. production, capacity, and capacity utilization

U.S. producers of limousines were asked to report capacity data for their overall operations and their operations producing limousines. \* \* \* of the reporting firms reported overall plant capacity that was greater than the plant's capacity to produce limousines. This differential was apparent for only January-June 1989 and was reportedly due to \* \* \*. <sup>42</sup>

Capacity reported by the U.S. producers was, on the average, on the basis of a 40-hour work week, operating 51 weeks per year. Some U.S. producers reported capacity based on actual production. As a result, reported capacity frequently equaled reported production. Therefore, data on capacity utilization may be somewhat overstated.

The reported U.S. capacity to produce limousines grew 12 percent from 1986 to 1987, and fell 43 percent in 1988. <sup>43</sup> It then increased 9 percent from January-June 1988 to January-June 1989. Actual reported production of the subject product fell 12 percent from 2,176 limousines in 1986 to 1,912 in 1987, and a further 12 percent to 1,676 in 1988. <sup>44</sup> An increase in production of one limousine was experienced from January-June 1988 to January-June 1989. The rate of capacity utilization decreased from 61 to 48 percent from 1986 to 1987, but increased to 74 percent in 1988. A decrease from 74 to 68 percent capacity utilization was seen for the interim periods of 1988 and 1989. <sup>45</sup> These data are presented in table 2.

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41 \* \* \* .

42 \* \* \* .

43 \* \* \* .

44 \* \* \* .

45 \* \* \* .

Table 2

Limousines: U.S. capacity, production, and capacity utilization, 1986-88, January-June 1988, and January-June 1989 1/

Item	1986	1987	1988	January-June--	
				1988	1989
Capacity (units).....	<u>2/</u> 3,585	<u>2/</u> 4,016	2,272	1,118	1,215
Production (units).....	<u>3/</u> 2,176	<u>4/</u> 1,912	1,676	827	828
Capacity utilization (percent)..	<u>5/</u> 61	<u>5/</u> 48	74	74	68

1/ Data presented are from firms that accounted for approximately \* \* \* percent of U.S. producers' domestic shipments in 1988.

2/ \* \* \*.

3/ \* \* \*.

4/ \* \* \*.

5/ \* \* \*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### U.S. producers' domestic shipments, company transfers, and export shipments

The majority of shipments made by U.S. producers of limousines closely paralleled actual production. This may be partially due to production being based on current orders and the effort made by a number of limousine producers to build primarily for just-in-time delivery. There were no company transfers and few exports were reported. Unit values not only may be influenced by the product mix of limousines shipped, but are also believed to be understated due to the inclusion, by some producers, of the value of conversions made on customer-supplied chassis. <sup>46</sup> Shipment data reported in response to Commission questionnaires are presented in table 3.

Domestic shipments.--Reported U.S. shipments of limousines decreased 14 percent from 2,183 limousines in 1986 to 1,867 limousines in 1987, and decreased an additional 14 percent to 1,610 limousines in 1988. <sup>47</sup> Domestic shipments were down 7 percent from 816 units to 763 units for the periods January-June 1988 to January-June 1989. The value of U.S. limousine manufacturers' domestic shipments increased 70 percent from 1986 to 1987, and an additional 19 percent in 1988. The interim periods experienced a modest increase of 3 percent. The unit values of the U.S. producers' domestic shipments of the subject product increased 8 percent from 1986 to 1987, and decreased 2 percent in 1988. An increase of 3 percent in the partial year periods was experienced.

<sup>46</sup> Conversion value corresponds to the amount of work and materials involved in the conversion of the vehicle. Therefore, conversion value is estimated to be as low as 35 percent or as high as 64 percent of the estimated finished value of the limousine. \* \* \*.

<sup>47</sup> \* \* \*.

Table 3

Limousines: U.S. producers' domestic shipments, export shipments, and total shipments, 1986-88, January-June 1988, and January-June 1989 1/

Item	1986	1987	1988	January-June--	
				1988	1989
<u>Quantity (units)</u>					
Domestic shipments.....	<u>2/</u> 2,183	<u>3/</u> 1,867	1,610	816	763
Export shipments.....	4	<u>4/</u> 6	40	5	24
Total shipments.....	<u>2/</u> 2,187	<u>3/4/</u> 1,873	1,650	821	787
<u>Value (1,000 dollars)</u>					
Domestic shipments <u>5/</u> .....	25,196	42,768	50,859	25,899	26,698
Export shipments.....	153	177	1,464	162	1,129
Total shipments <u>5/</u> .....	25,349	42,945	52,323	26,060	27,826
<u>Unit value <u>6/</u></u>					
Domestic shipments <u>7/</u> .....	\$40,508	\$43,641	\$42,883	\$43,165	\$44,348
Export shipments.....	38,125	29,517	36,600	32,340	47,025
Average, all shipments <u>7/</u> ..	40,493	43,555	42,678	43,075	44,451

1/ Except where indicated, information is calculated from questionnaires received by the Commission and is estimated to represent approximately \* \* \* percent of U.S. producers' U.S. shipments in 1988.

2/ \* \* \*.

3/ \* \* \*.

4/ \* \* \*.

5/ \* \* \*.

6/ Computed from the unrounded figures.

7/ Computed from data supplied by firms providing information on both quantity and value.

Note.--Because of rounding, figures may not add to totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Export shipments.--Export shipments were reported by only five U.S. limousine producers and were in such small quantities that the growth in the shipments from 1986 to the present may at first glance seem phenomenal. A nine-fold increase in export shipments from 4 to 40 limousines was reported from 1986 to 1988. For the periods January-June 1988 and January-June 1989, an increase of nearly four fold from 5 to 24 units was reported. The total value of export shipments likewise increased more than eight fold from 1986 to 1988, and increased six fold during the January-June periods of 1988 and 1989. The unit value of export shipments decreased 23 percent from 1986 to 1987, and increased 24 percent in 1988. An increase of 45 percent was experienced for the period from January-June 1988 to January-June 1989. Export markets for limousines are reportedly \* \* \*.

Total shipments.--The U.S. producers' total shipments of limousines in units decreased 14 percent from 2,187 in 1986 to 1,873 in 1987, and 12 percent

to 1,650 limousines in 1988. A decrease in total shipments of 4 percent was reported for the partial-year periods January-June 1988 to January-June 1989. The value of total U.S. shipments increased 106 percent from 1986 to 1988, and 7 percent for the periods January-June 1988 and January-June 1989. Total unit values of limousine shipments irregularly increased 5 percent from 1986 to 1988, with a 3-percent increase from January-June 1988 to January-June 1989.

#### U.S. producers' inventories

Reported end-of-period inventories of completed limousines dropped 15 percent to 63 units in 1986, from 74 units in 1985. However, the level increased 62 percent to 102 units in 1987, and an additional 26 percent to 128 units in 1988. For the interim periods January-June 1988 and January-June 1989, end-of-period inventory levels increased 56 percent from 108 to 169 completed limousines. Inventories as a percentage of shipments steadily rose from 3 percent in 1986 to 8 percent in 1988. An increase in the inventory-to-shipment ratio from 7 percent for the period January-June 1988 to 11 percent for the period January-June 1989 was also reported. End-of-period inventory data are presented in table 4.

Table 4

Limousines: U.S. producers' end-of-period inventories, inventories as a percentage of U.S. shipments, and inventories as a percentage of total shipments, as of Dec. 31, 1985-88 and June 30, 1988 and 1989 <sup>1/</sup>

Item	1985	1986	1987	1988	January-June--	
					1988	1989
Inventories (units).....	74	63	102	128	108	169
Inventories/U.S. shipments (percent).....	<sup>2/</sup>	3	5	8	<sup>3/</sup> 7	<sup>3/</sup> 11
Inventories/total shipments (percent).....	<sup>2/</sup>	3	5	8	<sup>3/</sup> 7	<sup>3/</sup> 11

<sup>1/</sup> Data compiled from responses of \* \* \* firms, whose domestic shipments represent approximately \* \* \* percent of total U.S. producers' domestic shipments in 1988.

<sup>2/</sup> Not available.

<sup>3/</sup> Based on annualized shipments.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

A number of U.S. producers operate on a custom-order basis, thereby eliminating finished inventories. On the other hand, with the growth of livery services and the gradual standardization of the stretch limousine, a number of limousine producers are building limousines to stock inventories. Nevertheless, due to the high costs associated with maintaining a substantial inventory of these high-value items, there seems to be an effort by limousine producers toward a just-in-time inventory plan, with a minimal number of demonstrator models kept in finished inventory.

U.S. employment, wages, and productivity

The reported number of production and related workers producing limousines increased 19 percent from 1986 to 1987 and decreased 17 percent in 1988. The partial-year-period data indicate a slight increase of almost 3 percent. In response to a question in the Commission's questionnaire, \* \* \* of the respondent U.S. producers reported a reduction of workers by at least 5 percent during the period under investigation.<sup>48</sup> Most producers reported indefinite or undetermined periods of worker reductions in 1988 and 1989, with the most common reason for the reduction being a decline in sales and production due to increased price competition.

Only one U.S. producer, Dillinger/Gaines, is known to employ production workers that belong to a union. These workers belong to the United Auto Workers Local 259.

Hours worked, wages paid, and total compensation paid to production and related workers producing limousines indicated an increase of approximately 20 percent from 1986 to 1987, and an approximate 13-percent decrease in 1988. For the partial year periods of January-June 1988 and January-June 1989, hours worked and total compensation paid rose approximately 1 percent, and wages paid fell less than 1 percent. Hourly compensation levels experienced a marginal decrease from 1986 to 1987, and an increase in 1988 of over 4 percent to \$9.73 per hour. These hourly wages fell approximately 4 percent during January-June 1988 and January-June 1989.

Productivity levels of U.S. producers decreased 32 percent from 1986 to 1987, and an additional 5 percent in 1988. Likewise, during January-June 1988 and January-June 1989, there was a reported decrease of 7 percent.

Unit labor costs for limousines increased 66 percent from \$3,377 per unit in 1986 to \$5,611 per unit in 1988.<sup>49</sup> The partial-year periods indicate decreasing unit labor costs of less than 1 percent. These data are presented in table 5.

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48 \* \* \*.

49 \* \* \*.

Table 5

Limousines: Average number of production and related workers, hours worked, productivity, wages paid, hourly wages, total compensation paid, hourly total compensation, and unit labor costs, 1986-88, January-June 1988, and January-June 1989 1/ 2/

Item	1986	1987	1988	January-June--	
				1988	1989
Number of production and related workers producing limousines.....	376	449	371	358	368
Hours worked by production and related workers producing limousines (1,000 hours).....	765	916	780	375	379
Wages paid to production and related workers producing limousines (\$1,000) 3/.....	6,403	7,655	6,627	3,692	3,679
Average hourly wages paid to production and related workers producing limousines 3/.....	\$9.35	\$9.30	\$9.73	\$10.86	\$10.36
Total compensation paid to production and related workers producing limousines (\$1,000) 3/.....	6,639	7,975	7,008	3,867	3,885
Productivity: 4/					
Quantity (units/1,000 hours).	2.8	1.9	1.8	1.9	1.8
Percent increase (decrease)5/	-	(32)	(5)	-	(7)
Unit labor costs: 4/					
Value (\$/unit).....	3,377	5,109	5,611	6,138	6,108
Percent increase (decrease)..	-	51	10	-	6/

1/ \* \* \*.

2/ Except where indicated, employment data presented are those of \* \* \* responding firms, whose U.S. shipments represent \* \* \* percent of total U.S. producers' domestic shipments in 1988.

3/ Data on wages and compensation paid to production and related workers presented are those of \* \* \* firms, whose U.S. shipments represent \* \* \* percent of total U.S. producers' domestic shipments in 1988.

4/ Figures presented are computed from data of firms providing information on both production and employment.

5/ Computed from the unrounded figures.

6/ A decrease of less than 0.5 percent.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Financial experience of U.S. producers

\* \* \* producers, accounting for \* \* \* percent of U.S. producers' domestic shipments of limousines in 1988, supplied usable income-and-loss data on limousines and overall operations of their establishments in which limousines are produced. The firms are \* \* \*.

A \* \* \* producer, \* \* \*, provided limited summary income-and-loss data on their operations producing limousines for accounting years 1986-88. These data are included in the table presenting individual company data. \* \* \*.

A \* \* \* producer, \* \* \*, provided data on overall operations of their company and stated that approximately \* \* \* percent of the net sales were for limousines. \* \* \*.

Because of the limited response to the Commission questionnaires, reported income-and-loss data may not be representative of the U.S. limousine industry. The 1989 Fact Book published by Limousine & Chauffeur magazine presents estimated stretch limousine sales in the United States decreasing from 7,000 units in 1987 to 5,800 units in 1988. The income-and-loss data presented by the responding producers indicate an opposite trend of increased units sold resulting in increased net sales from 1987 to 1988.

Overall establishment operations.--In addition to producing limousines, \* \* \* purchases and resells \* \* \*, and \* \* \* purchases and resells \* \* \*. Limousines accounted for \* \* \* percent of overall establishment net sales in 1988. The overall establishment income-and-loss experience of \* \* \* U.S. producers is presented in table 6.

Operations on limousines.-- Net sales of limousines for \* \* \* producers increased 33.6 percent from \$19.0 million in 1986 to \$25.4 million in 1987, as shown in table 7. Sales rose 33.3 percent to \$33.8 million in 1988. Operating income was \$1.5 million in 1986 and 1987 and \$1.8 million in 1988. Operating income margins, as a percent of sales, were 8.0 percent in 1986, 5.9 percent in 1987, and 5.2 percent in 1988.

\* \* \*. \* \* \*. Net sales for the 1989 interim period were \$11.2 million, an increase of 12.2 percent over interim 1988 sales of \$10.0 million. Operating income was \$435,000 and \$39,000 in interim 1988 and interim 1989, respectively. Operating income margins, as a percent of sales, were 4.4 percent in interim 1988 and 0.3 percent in interim 1989. \* \* \*.

Net sales, operating income, and the operating income margin for limousines are presented in table 8 for each company. \* \* \* are closely held corporations with capitalization ranging from approximately \* \* \* to \* \* \*. Officers' salaries and bonuses for the \* \* \* companies combined \* \* \*. \* \* \*.

Investment in productive facilities.--\* \* \* companies provided data on their investment in productive facilities and on total assets. These data are presented in table 9.

Table 6

Income-and-loss experience of U.S. producers on the overall operations of their establishments within which limousines are produced, accounting years 1986-88, January-March 1988, and January-March 1989 <sup>1/</sup>

Item	1986	1987	1988	January-March--	
				1988	1989
Value (1,000 dollars)					
Net sales.....	30,123	27,802	39,896	10,420	12,623
Cost of goods sold.....	25,249	22,607	32,967	8,369	10,849
Gross profit.....	4,874	5,195	6,929	2,051	1,774
General, selling, and administrative expenses...	3,153	3,618	4,950	1,516	1,724
Operating income.....	1,721	1,577	1,979	535	50
Interest expense.....	378	520	969	242	333
Other income or (expense), net.....	(151)	(186)	(31)	61	114
Net income or (loss) before income taxes.....	1,192	871	979	354	(169)
Depreciation and amorti- zation included above.....	135	184	215	114	85
Cash flow <sup>2/</sup> .....	1,327	1,055	1,194	468	(84)
Share of net sales (percent)					
Cost of goods sold.....	83.8	81.3	82.6	80.3	85.9
Gross profit.....	16.2	18.7	17.4	19.7	14.1
General, selling, and administrative expenses...	10.5	13.0	12.4	14.5	13.7
Operating income.....	5.7	5.7	5.0	5.1	0.4
Net income or (loss) before income taxes.....	4.0	3.1	2.5	3.4	(1.3)
Number of firms reporting					
Operating losses.....	***	***	***	***	***
Net losses.....	***	***	***	***	***
Data.....	***	***	***	***	***

<sup>1/</sup> \* \* \*.

<sup>2/</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 7

Income-and-loss experience of U.S. producers on their operations producing limousines, accounting years 1986-88, January-March 1988, and January-March 1989 <sup>1/</sup>

Item	1986	1987	1988	January-March--	
				1988	1989
<u>Value (1,000 dollars)</u>					
Net sales.....	18,987	25,371	33,808	9,973	11,192
Cost of goods sold.....	14,930	20,596	27,584	8,105	9,510
Gross profit.....	4,057	4,775	6,224	1,868	1,682
General, selling, and administrative expenses...	2,533	3,286	4,451	1,433	1,643
Operating income.....	1,524	1,489	1,773	435	39
Interest expense.....	***	***	***	***	***
Other income or (expense), net.....	***	***	***	***	***
Net income or (loss) before income taxes.....	1,164	854	904	255	(235)
Depreciation and amorti- zation included above.....	***	***	***	***	***
Cash flow <sup>2/</sup> .....	***	***	***	***	***
<u>Share of net sales (percent)</u>					
Cost of goods sold.....	78.6	81.2	81.6	81.3	85.0
Gross profit.....	21.4	18.8	18.4	18.7	15.0
General, selling, and administrative expenses...	13.3	13.0	13.2	14.4	14.7
Operating income.....	8.0	5.9	5.2	4.4	0.3
Net income or (loss) before income taxes.....	6.1	3.4	2.7	2.6	(2.1)
<u>Number of firms reporting</u>					
Operating losses.....	***	***	***	***	***
Net losses.....	***	***	***	***	***
Data.....	***	***	***	***	***

<sup>1/</sup> \* \* \*.

<sup>2/</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 8  
Income-and-loss experience of U.S. producers on their operations producing limousines, by firms, accounting years 1986-88, January-March 1988, and January-March 1989 1/

Item	1986	1987	1988	January-March--	
				1988	1989
	Value (1,000 dollars)				
Net sales:					
* * * .....	***	***	***	***	***
Subtotal, * * * firms..	18,987	25,371	33,808	9,973	11,192
* * * .....	***	***	***	***	***
Total, * * * firms:....	***	***	***	***	***
Operating income:					
* * * .....	***	***	***	***	***
Subtotal, * * * firms..	1,524	1,489	1,773	435	39
* * * .....	***	***	***	***	***
Total, * * * firms:....	***	***	***	***	***
	Share of net sales (percent)				
Operating income or (loss) margin:					
* * * .....	***	***	***	***	***
Average, * * * firms...	8.0	5.9	5.2	4.4	0.3
* * * .....	***	***	***	***	***
Average, * * * firms...	***	***	***	***	***

1/ \* \* \*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 9

Limousines: Value of property, plant, and equipment of \* \* \* U.S. producers, as of end of accounting years 1986-88, Mar. 31, 1988, and Mar. 31, 1989 1/

Item	1986	1987	1988	Mar. 31--	
				1988	1989
	Value (1,000 dollars)				
All products of establishments:					
Fixed assets:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Total assets <u>2/</u> .....	***	***	***	***	***
Limousines:					
Fixed assets:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Total assets <u>3/</u> <u>4/</u> .....	***	***	***	***	***
	Return on book value of fixed assets (percent) <u>5/</u>				
All products of establishments:					
Operating return <u>6/</u> .....	***	***	***	***	***
Net return <u>7/</u> .....	***	***	***	***	***
Limousines:					
Operating return <u>6/</u> .....	***	***	***	***	***
Net return <u>7/</u> .....	***	***	***	***	***
	Return on total assets (percent) <u>4/</u> <u>5/</u>				
All products of establishments:					
Operating return <u>6/</u> .....	***	***	***	***	***
Net return <u>7/</u> .....	***	***	***	***	***
Limousines:					
Operating return <u>6/</u> .....	***	***	***	***	***
Net return <u>7/</u> .....	***	***	***	***	***

1/ \* \* \*.

2/ Defined as book value of fixed assets plus current and noncurrent assets.

3/ Total establishment assets are apportioned, by firm, to product groups on the basis of the ratio of the respective book values of fixed assets.

4/ \* \* \*.

5/ Computed using data from only those firms supplying both asset and profit-and-loss information, and as such, may not be deriveable from data presented.

6/ Defined as operating income or loss divided by asset value.

7/ Defined as net income or loss divided by asset value.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Capital expenditures.--\* \* \* companies provided data on capital expenditures for their limousine operations. These data are presented in table 10.

Research and development expenses.--\* \* \* provided estimated research and development expenses of \* \* \* on overall operations. \* \* \*.

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects of imports of limousines from Canada on their firms' growth, investment, development and production efforts, and ability to raise capital. Their responses are shown in appendix D.

Table 10  
Limousines: Capital expenditures by \* \* \* U.S. producers, accounting years 1986-88, January-March 1988, and January-March 1989 <sup>1/</sup>

(In thousands of dollars)

Item	1986	1987	1988	January-March--	
				1988	1989
All products of establishments:					
Land and land improvements.....	***	***	***	***	***
Building and leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
Limousines:					
Land and land improvements.....	***	***	***	***	***
Building and leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***

<sup>1/</sup> \* \* \*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Consideration of the Question of  
Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors <sup>50</sup>--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

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<sup>50</sup> Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>51</sup>

The available information on the nature of the subsidies (item (I) above) is presented in the section of this report entitled "The nature and extent of alleged subsidies;" information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury to an industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows.

#### U.S. importers' inventories

U.S. imports of limousines from Canada were reported by \* \* \*, as these firms served as their own importers of record for the period of investigation. Because the firms did not take physical possession of the imported product,

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<sup>51</sup> Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

however, they were generally unable to provide the Commission with data on inventories held in the United States.<sup>52</sup>

### Foreign producers

Information regarding producers of limousines in Canada was requested of the U.S. Embassy in Ottawa by the Commission.<sup>53</sup> In addition, the Commission requested information by letter from counsel for A.H.A. and by telephone from other Canadian producers. A.H.A., through one of its predecessor corporations and through acquired businesses, has, since 1947, been engaged in the design and manufacture of specialty vehicles. Andy Hotton Associates, a predecessor of A.H.A., was historically involved in coachbuilding with Ford Motor Co. in Belleville, MI.<sup>54</sup> The firm was moved to Ontario and was incorporated in 1976. Today, the company manufactures ambulances, limousines, and formal sedans, in addition to supplying parts for the specialty vehicle industry and the automotive aftermarket.

A.H.A. entered the funeral car business in 1978 with its Eureka Coach Division producing hearses and nine-passenger limousines on Lincoln and Buick chassis. This division was sold in 1980 and eventually ceased all Canadian production activities under the new ownership.

Great Lakes Tube Products, Inc., of Detroit, MI, a wholly-owned subsidiary of A.H.A., distributes parts to the automotive aftermarket. In early 1985, Great Lakes Tube Products, Inc., formed Premier Engineering and Design, Inc., which currently sources and supplies components to the specialty vehicle industry. Mr. Stein, President of A.H.A., has indicated that through this business, A.H.A. has been able to supply the limousine industry with less expensive components.<sup>55</sup>

In addition to these concerns, A.H.A. has quite an extensive U.S. distribution network serving a widely scattered area throughout the continental United States. There are 26 members in A.H.A.'s U.S. "Dealer Team," composed of 9 distributors and 17 dealers.

A.H.A. was requested by the Commission to provide information on its Canadian capacity, production, inventories, and shipments of the subject products for the period of investigation. Data received by the Commission on A.H.A. are presented in table 11.

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<sup>52</sup> \* \* \*

<sup>53</sup> The U.S. Embassy in Ottawa identified 6 firms that manufactured limousines during part or all of the period of investigation. These include: A.H.A., Fairway Coach Works, Stretch Sales, Demers & Sons, Inc., Eureka Coach Co., Ltd., and Viscount Coach Works. Of these 6 firms, complete information was provided for by A.H.A., which is believed to have accounted for approximately \* \* \* and \* \* \* percent of Canadian limousine exports to the United States in 1988 and 1989, respectively.

<sup>54</sup> \* \* \*

<sup>55</sup> Melvin Stein, Transcript of the conference, p. 126.

Table 11

Limousines: A.H.A.'s capacity, production, capacity utilization, end-of-period inventories, inventories as a share of total shipments, home-market shipments, exports to the United States, exports to all other countries, and total shipments, 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	January-June--	
				1988	1989
Capacity (units).....	***	***	***	***	***
Production (units).....	***	***	***	***	***
Capacity utilization (percent).	***	***	***	***	***
End-of-period inventories (units).....	1/	***	***	***	***
Inventories as a share of total shipments (percent).....	1/	***	***	2/ ***	2/ ***
Shipments:					
Exports to the U.S. (units)..	***	***	***	***	***
Other exports (units).....	***	***	***	***	***
Total exports (units).....	***	***	***	***	***
Home market (units).....	***	***	***	***	***
Total shipments (units)....	***	***	***	***	***

1/ Not available.

2/ Based on annualized shipments.

Source: Data submitted by counsel for A.H.A. Automotive Technologies Corp. in response to a request for information by the Commission.

These data show a general \* \* \* in the capacity to produce, as explained by \* \* \*. A.H.A. reported \* \* \*. In a newspaper article published by The Guardian on September 9, 1987, Mr. Stein indicated that, "at the 9,000 sq. m. (100,000 sq. ft.) Brampton plant, A.H.A. will be able to build at least 1,300 limos a year." Mr. Stein's statement, \* \* \*. <sup>56</sup> Staff has observed that \* \* \*.

Levels of production have \* \* \*. Capacity utilization \* \* \* from \* \* \* percent in 1986 to \* \* \* percent in 1987 and 1988, with a \* \* \* from \* \* \* percent to \* \* \* percent during January-June 1988 and January-June 1989. End-of-period inventories, as well as the ratio of end-of-period inventories to total shipments, have \* \* \*. In addition, shipments to the United States, as well as home-market shipments, have generally \* \* \* during the period of investigation.

In addition to information provided by A.H.A., other Canadian firms indicated U.S. exports of limousines for the period of investigation. These data are presented in table 12. According to the reporting Canadian limousine producers, total Canadian exports to the United States increased \* \* \* percent from 1986 to 1987 and decreased \* \* \* percent in 1988. The interim periods of January-June 1988 and January-June 1989 experienced a \* \* \*-percent decrease in total Canadian export shipments to the United States. This drop is explained by \* \* \*. \* \* \*.

Table 12

Limousines: Canadian exports to the United States, by companies, 1986-88, January-June 1988, and January-June 1989

Firm	(Quantity in units)				
	1986	1987	1988	1988	1989
*	*	*	*	*	*

Source: Compiled from data submitted in response to requests by the U.S. International Trade Commission.

Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury

U.S. imports

Questionnaires were sent to 24 firms identified by the petitioner as importers of limousines. One additional importer of products under TSUS item 806.20 was later identified and accordingly sent a questionnaire. Since the subject product entered the United States under a "basket category," the \* \* \* was of little use in identifying importers of limousines.

\* \* \*, which responded to the Commission's request for data; no response from \* \* \* was received by the Commission. Additional imports were identified by Commission staff through contact with Canadian limousine producers; however, data on the value of these imports could not be obtained. Therefore, value and unit value information provided in table 13 is limited to that of A.H.A. The Commission staff has been informed by industry experts that U.S. imports of limousines from countries other than Canada are negligible.<sup>57</sup>

Table 13

Limousines: U.S. imports from Canada, 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	1988	1989
U.S. imports from Canada:					
Quantity (units).....	***	***	***	***	1/ ***
Value (1,000 dollars) 2/...	***	***	***	***	***
Unit value 2/.....	***	***	***	***	***

1/ \* \* \*.

2/ \* \* \*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

57 \* \* \*.

The quantity of U.S. imports of limousines rose \* \* \* percent from \* \* \* units in 1986 to \* \* \* units in 1987, and fell \* \* \* percent in 1988. A further drop of \* \* \* percent was noted during the periods January-June 1988 and January-June 1989. This drop is explained by \* \* \*. <sup>58</sup> \* \* \*.

\* \* \* trend in the value of imports of limousines reported by A.H.A. was observed. The value of U.S. imports of limousines \* \* \*. Unit values \* \* \*.

\* \* \* \* \* \* \* \*

U.S. market penetration by the subject imports

Of total apparent U.S. consumption of limousines, U.S. imports of Canadian-produced limousines climbed from \* \* \* percent in 1986 to \* \* \* percent in 1987, and further to \* \* \* percent in 1988. For the partial-year periods of January-June 1988 and January-June 1989, U.S. imports of Canadian-produced limousines decreased from \* \* \* percent to \* \* \* percent. This decline is largely the result of \* \* \*. These data are presented in table 14. Data on the value of market penetration by limousines imported from Canada could not be computed as a result of not only poor response on the part of the U.S. producers, but also because of the unavailability of secondary sources on the subject.

Table 14  
Limousines: Shares of the quantity of U.S. consumption supplied by Canadian and U.S. producers, 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	January-June--	
				1988	1989
Apparent consumption (units)...	6,800	7,000	5,800	3,723	3,723
Share of apparent consumption supplied by--					
Canada (units).....	***	***	***	***	***
Canada (percent).....	***	***	***	***	***
United States (units).....	***	***	***	***	***
United States (percent).....	***	***	***	***	***

Source: Apparent consumption for 1986-88 is estimated by Limousine & Chauffeur Research Dept. Apparent consumption for January-June 1988 and January-June 1989 is supplied by respondent's counsel and confirmed by Limousine & Chauffeur Research Dept. Canadian information is compiled from data submitted in response to requests made by the U.S. International Trade Commission. Staff derived U.S. information by calculating the difference between apparent consumption and Canadian information.

## Prices

Market characteristics.--Domestic limousine producers and the importer/producer of Canadian limousines publish price lists. More than simply a price schedule by class of customer, price lists enumerate the standard features and equipment that are included in the various basic models offered. Price lists also identify the optional features and equipment offered for each model and each item's additional cost and selling price. Features and equipment that initially were largely optional have evolved in recent years into packages of similar, quite comparable content that are viewed as standard by coachbuilders, dealers and distributors, and livery operators alike. The latter have been actively instrumental in the standardization of features and equipment that they deem necessary and even essential to the limousine buyers' and users' perception and expectations with respect to commercial and rental user demand for limousines. The result is that standard, volume-model limousines of the various coachbuilders, both domestic and foreign, are highly comparable in terms of features and equipment.<sup>59</sup> At the same time, coachbuilders have their own style, design, and equipment brand preferences in attempts to differentiate their limousines from competitors' similar standard models. Some of these attempts at product differentiation are cosmetic and others are more substantive. Console location, cabinetry, TV size and brand, lighting, etc. become the signature of a particular coachbuilder and reflect varying differences in quality and cost but not necessarily correlative differences in the prices of specific features and items of equipment. Field interviews with U.S. and Canadian coachbuilders revealed that features and items that add little to cost often command a disproportionately high price. Or, features and equipment that are obsolete or "off the books," i.e., held in inventory at no cost are "thrown in," or priced but then offered at "no charge" to clinch a deal.<sup>60</sup> Efforts toward product differentiation also are reflected in the length of wheelbase extension, and a coachbuilder's signature at times is apparent in the pattern of the model sizes offered with similar or the same package of features and equipment.

Most coachbuilders have at least two or as many as three basic volume models they offer at different price points and with varying wheelbase stretch lengths. The 60-inch extension has become the most common size stretch limousine and is largely accepted as the industry standard.<sup>61</sup> Coachbuilders assert, however, that differences in length within a range of 50 to 70 inches do not reflect significant differences in labor or material cost. Transaction price data indicate, however, that this does not necessarily translate into insignificant differences in selling prices.

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<sup>59</sup> Canadian-built standard, volume models and standard, volume models converted by U.S. coachbuilders in maquiladora plants in Mexico under the provisions of TSUS item 806.20 and exported back to the United States have comparable features and standard equipment to standard, volume-model limousines built by coachbuilders in their U.S. plants.

<sup>60</sup> \* \* \*

<sup>61</sup> The Department of Transportation is expected to impose safety standards on the limousine industry in the near future that will limit the stretch length of limousines to 60" or perhaps 66".

The Canadian coachbuilder/importer, A.H.A., states that list prices are not generally adhered to. "Deals" characterize this market as in the regular automobile market. Discounting, rebates, and offers of "no charge options" are common. A.H.A. notes that at the contract distribution (distributor) level " \* \* \*, \* \* \* ." <sup>62</sup>

The petitioner states that " \* \* \* ." <sup>63</sup> Respondent and petitioner agree that transportation costs are not an important factor in the purchasers' decisions.

Rebates to dealers from the Lincoln and Cadillac factories have characterized the market in recent years, especially at model change time, to move excess inventory at the factory and dealer level. Lincoln's rebate currently is \$1,500 to the dealer. The dealer has the option to pass it on to the limousine builder, who, in turn, can and does pass it to the dealer/distributor who uses it, when necessary, as a sales tool. Competition among and between Lincoln and Cadillac dealers to sell limousine chassis to coachbuilders passes the rebate to the limousine builder and on through the pipeline to a price reduction on the invoice or a factory "rebate" check offered to the ultimate retail purchaser. Field research revealed that rebates from Lincoln in 1989 applied to vehicles sold to Canadian coachbuilders as well as to U.S. limousine producers. <sup>64</sup>

Both petitioner and respondent state that their sales are primarily on a spot basis sourced from stock or from vehicles in production. Both interested parties note that contract sales, usually in fleet quantity, are built to customer order and to scheduled delivery. Negotiated prices are fixed or based on a formula that allows for chassis price increases to be passed through to the purchaser if chassis are not in inventory.

Chassis and conversion, the elements of cost and price.--Chassis cost is the largest element of limousine price and amounts to roughly one-half of the price of a standard 60-inch stretch limousine. Coachbuilders buy their Lincoln or Cadillac chassis through franchised dealers. They purchase what is called the delete trim option. Dealers compete for sales to coachbuilders as a profitable market segment of demand, or as a low profit or no profit method of building fleet volume that translates into annual factory rebate qualification levels. Field research revealed that dealers and coachbuilders frequently have common stockholder relationships, cross-ownership, or other cross-company or personal financial interests from dealer to coachbuilder or vice versa.

During the subject time period, which spans 4 or perhaps 5 model years of limousine sales and chassis purchases, 1986-90, the cost of chassis to coachbuilders has increased annually. The delete trim option Lincoln Town Car, 1987 model year (purchased in October-December 1986) was about \$ \* \* \*, and the Cadillac Brougham that same model year was roughly \$ \* \* \*, purchased

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<sup>62</sup> Questionnaire response of A.H.A., \* \* \*.

<sup>63</sup> Questionnaire response of Southampton Coachworks, Ltd., \* \* \*.

<sup>64</sup> Conference testimony suggests that a recent extension of the rebate program may be limited to factory sales to Lincoln-Mercury dealers in the United States and thus possibly only to U.S. coachbuilders.

in December 1986. A 1989 Lincoln Town Car delete trim option, purchased in November 1988, cost \$\* \* \*. The 1990 model is expected to be 5 percent higher in price. Conference testimony and field interviews indicated that selling prices have not kept pace with the increase in delete trim option chassis cost since mid-1988. <sup>65</sup>

Questionnaire price data.--The Commission requested net U.S. f.o.b. selling prices for two representative limousine models that each reflected at least a 10-percent share of annual sales volume: a low-end, standard model and a high-end, luxury model. The features and standard equipment were to match as closely as possible the Southampton 60" Limited and the Southampton Luxury 60" models. U.S. producers and importers were requested to report the f.o.b. prices separately for their lowest price sale, quarterly, to dealers/distributors and to limousine rental companies for the period January 1987-June 1989. Separate price data for these models built with Lincoln Town Car and Cadillac chassis were requested. The four models for which price data were requested are listed below.

Model 1.--Standard low-end "people-mover" model: Lincoln Town Car chassis, single cut 50"-70" extended wheelbase, based on model years 1987-89. Example: the Southampton 60" Limited, a Lincoln Town Car chassis with "coachbuilder" or equivalent package and all steel construction extension finished and fitted with standard features and equipment.

Model 2.--Standard low-end "people-mover" model: Cadillac Brougham chassis, single cut 50"-70" extended wheelbase, based on model years 1987-89. Example: the Southampton 60" Limited, a Cadillac Brougham chassis with "coachbuilder" or equivalent package and all steel construction extension finished and fitted with standard features and equipment.

Model 3.--Luxury high-end custom model: Lincoln Town Car chassis, single or double cut 50"-70" extended wheelbase, based on model years 1987-89. Example: the Southampton Luxury 60", a Lincoln Town Car chassis with "coachbuilder" or equivalent package and all steel construction extension finished and fitted with standard features and equipment.

Model 4.--Luxury high-end custom model: Cadillac Brougham chassis, single or double cut 50"-70" extended wheelbase, based on model years 1987-89. Example: the Southampton Luxury 60", a Cadillac Brougham chassis with "coachbuilder" or equivalent package and all steel construction extension finished and fitted with standard features and equipment.

\* \* \* U.S. limousine coachbuilders and one importer of limousines from Canada provided usable data for lowest-price sales, but not necessarily for

each model nor for each quarter of the subject period. <sup>66</sup> Price data for the subject limousine models built on Cadillac Brougham chassis were scant.  
\* \* \*

Price trends.--Price trends for the subject domestic and imported limousines are based on comparisons of quarterly net f.o.b. selling prices reported by domestic producers and the responding importer during the period January 1987-June 1989. The quarterly price data comparisons were based on the lowest price data reported by each domestic company and were separately compared to the corresponding importer prices.

Domestic limousine prices.--Based on U.S. producers' questionnaire responses, selling prices reflect irregular fluctuations in certain models on a company-by-company basis and a definite downturn beginning in 1988 for other companies. Overall, the trend seems to reflect a softening of prices since mid-1988. Conference testimony by both petitioner and respondent support this conclusion of a softer market, but for different reasons.

Based on \* \* \* quarterly observations, selling prices of \* \* \* for its standard low-end limousine with a Lincoln Town Car chassis sold to dealers/distributors show \* \* \* (table 15). The price then \* \* \*. The price peaked at \* \* \*.

Table 15

Limousines: Lowest-price sale of U.S.-produced and of imported Canadian-produced Model 1, Lincoln Town Car chassis, single cut, 60-66-inch extended wheelbase limousines to dealers or distributors, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

\* \* \* selling price data for the Model 1 limousine sold to dealers/distributors show a \* \* \*. The price level in the subsequent quarters \* \* \*.

The prices of \* \* \* Model 1 limousines sold to dealers/distributors show \* \* \*. \* \* \*.

\* \* \* quarterly limousine prices for \* \* \* Model 1 limousines sold to this class of purchasers \* \* \*. \* \* \*.

Data from \* \* \* covered \* \* \*. \* \* \*.

Selling prices of standard Model 1 Lincoln Town Car limousines sold by \* \* \* to limousine rental companies show \* \* \* (table 16).

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<sup>66</sup> The \* \* \* U.S. producers reporting partial or complete price data accounted for approximately \* \* \* percent of the total reported value of U.S. coachbuilders' shipments of limousines during 1988. The responding importer accounted for \* \* \* percent of the quantity of reported imports of limousines from Canada in 1988.

Table 16

Limousines: Lowest-price sale of U.S.-produced and of imported Canadian-produced Model 1, Lincoln Town Car chassis, single cut, 60-66-inch extended wheelbase limousines to limousine rental firms, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

The prices of \* \* \* for this model sold to livery rental operators \* \* \*.

The prices of \* \* \* to this class of purchaser show \* \* \*.

\* \* \* quarterly prices for \* \* \* Model 1 limousines sold to rental firms indicate a \* \* \*. \* \* \*.

High-end custom Model 3 limousines built on a Lincoln Town Car chassis and sold to dealers/distributors by \* \* \* reflect a selling price pattern that \* \* \* (table 17). \* \* \*. The prices of \* \* \* in sales of this model to dealers/distributors held at \$\* \* \* throughout the period. <sup>67</sup>

Table 17

Limousines: Lowest-price sale of U.S.-produced and of imported Canadian-produced, Model 3, Lincoln Town Car chassis, single cut, 60-66-inch extended wheelbase limousines to dealers or distributors, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

The selling prices of \* \* \* for Model 3 Lincoln Town Car chassis limousines sold to rental companies show a \* \* \* (table 18). \* \* \*.

Table 18

Limousines: Lowest-price sale of U.S.-produced Model 3, Lincoln Town Car chassis, single cut, 60-66-inch extended wheelbase limousines to limousine rental firms, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

\* \* \* provided \* \* \* quarterly prices beginning in \* \* \* for Model 3 limousines sold to livery operators. \* \* \*.

\* \* \* prices for this high-end model were flat at \$\* \* \* in sales to livery rental firms throughout the subject period.

<sup>67</sup> \* \* \*.

Canadian limousine prices.--Prices for Model 1 limousines with Lincoln Town Car chassis, imported from Canada and sold to dealers/distributors, reflect \* \* \* (table 15). \* \* \*.

Sales of Model 1 Canadian limousines built on Lincoln Town Car chassis and sold to livery rental operators \* \* \*. These prices \* \* \* (table 16).

Data on the sales prices of the Model 3 limousine imported from Canada and sold to dealers/distributors \* \* \*. These \* \* \* observations show a pattern of \* \* \* (table 17).

Price comparisons and margins of underselling.--Price comparisons between the U.S.-built limousines and the imported Canadian-built limousines are based on the same net f.o.b. selling prices of the representative models surveyed in the trend analysis. They match lowest price domestic and import sales of those models to dealers/distributors and to livery rental limousine operations during January 1987-June 1989. Quarterly comparisons of domestic versus import price were possible on a company-by-company basis for a total of 55 quarters. Comparisons in 51 of those quarters indicate underselling by the limousines imported from Canada. Tables 19-21 present the margins of underselling in percentage terms, on a company-by-company basis, for the three specific model/channel of distribution sales for which quarterly selling price comparisons were possible.

Comparisons between quarterly selling prices of the representative models of domestic and imported Canadian limousines sold to the respective two classes of purchasers based on questionnaire responses should be viewed with some degree of caution. Whereas such comparisons reflect a pervasive pattern that strongly supports a conclusion that underselling by the Canadian imported limousines did indeed characterize the market during the subject period, the specific degree of underselling in each quarterly comparison is subject to serious question.

As has been previously noted, in detail, the representative domestic and imported Canadian limousines do compete head-to-head, model-by-model, in the market place. The representative models of domestic and imported limousines compared are both of the same or very close competing 60- to 66-inch stretch lengths. Both are sold in volume. Both contain packages of features and standard equipment that are very comparable on an item-by-item basis and are perceived by purchasers as substitutes in terms of their respective packages of features and standard equipment. Both domestic coachbuilders and the Canadian producer/importer buy and use the same delete trim option in Lincoln Town Car and/or Cadillac Brougham chassis.<sup>68</sup> Both the domestic and the imported chassis have qualified for the same factory rebates during the subject time period. These similarities, identities, and perceptions denote a

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<sup>68</sup> Although limousines with Lincoln Town Car chassis do compete with limousines with Cadillac Brougham chassis, the comparisons of quarterly domestic and imported Canadian limousine selling prices are based on only those for limousines built on Lincoln Town Car chassis for three reasons. First, the cost to the domestic coach builder of a Cadillac Brougham chassis is roughly \$1,000 higher than the cost of a Lincoln Town Car chassis of the same model year. Second, the Commission received a very poor response in terms of price data from domestic coach builders who specialize in building limousines with Cadillac Brougham chassis. Finally, \* \* \*.

strong degree of comparability between the domestic and imported limousines on a model-by-model basis, especially for the quarterly comparisons of the selling prices of the standard, low-end, volume Model 1, by class of purchaser.

Accepting the fact that there is a strong basis that supports comparisons of the quarterly selling prices of the domestic and imported Canadian limousines, by representative volume model and by channel of distribution, a number of questions remain with respect to the specific degree of accuracy of the underselling margins. It is not clear whether in every instance rebates are included or netted out of the quarterly selling prices submitted by each domestic coachbuilder and by the Canadian producer/importer. Rebates may or may not be passed through to the coachbuilder or to the ultimate purchaser of the limousine, depending on the circumstances of the specific transaction. In cases where the franchised Lincoln-Mercury or Cadillac dealer is related in some way to the coachbuilder or where a distributor is related to the Canadian producer, rebates may or may not be held or passed through as circumstances dictate and would not appear on the invoice prices for a specific transaction.<sup>69</sup> There is also the question of optional equipment included in specific domestic or import transaction price data, without itemized prices for such equipment that would enable price adjustments that may reduce or increase a margin of underselling or overselling. Finally, there is the question of whether optional equipment was included at "no charge," a fact that would require a price adjustment changing an existent margin of underselling or overselling.

Price data received did not show any trade-in allowance or net selling price that took into account the expected net resale value of any trade-in. The trade-in question was brought up by Commission staff at the conference, but not resolved in any definitive way. Respondent did acknowledge the importance of trade-ins as a selling price factor.<sup>70</sup> It is not known to what extent coachbuilders themselves become directly involved in trade-ins in making direct sales to livery rental limousine operators or to corporate fleet accounts such as Hyatt Regency, nor what effect such involvement may have on transaction price.

\* \* \* \* \*

Other questions that can impact on the accuracy of comparisons of quarterly selling prices include quality differences between the same items of standard or optional equipment, the inclusion or exclusion of extended service warranties in transaction price comparisons, and terms offered to purchasers.

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<sup>69</sup> \* \* \*

<sup>70</sup> The Canadian producer testified at the conference that the trade-in "can make a very, very large difference . . . when through our distributor network . . . he has an advantage . . . going in. He does not have to look for a higher price (for the new limousine) in order to protect the trade-in for when that is sold. He may well have it sold before he makes the deal for the new car." Conference transcript, pp. 136-137. \* \* \*

Margins of underselling and overselling, by company.--Six quarterly comparisons of selling prices of \* \* \* and \* \* \* Model 1 limousines sold to dealers/distributors were possible. All six reflected margins of underselling by the imported Canadian limousines, \* \* \*. \* \* \* margins ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \* per limousine (table 19).

Table 19

Limousines: Margins of under/overselling, based on comparisons of net f.o.b. selling prices of Model 1 domestic limousines and limousines imported from Canada sold to dealers and distributors, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

Ten comparisons for this model were possible for \* \* \* selling prices. In 9 of the 10 instances, the Canadian limousines were priced below the domestic limousines. The margins of underselling ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \*.

A single comparison of \* \* \* selling price with that of \* \* \* was possible. The Canadian limousine was sold at a price \* \* \* percent, or \$\* \* \* below the domestic coachbuilder's price.

Six quarterly comparisons of prices of sales of Model 1 limousines by \* \* \* were possible. All six reflected underselling by the Canadian limousines. The margins ranged from \* \* \* to \* \* \* percent. In dollar terms they varied from \$\* \* \* to \$\* \* \*.

Comparisons of \* \* \* selling prices to \* \* \*'s prices for this model were possible for 5 quarters. Two comparisons during the \* \* \* period showed the domestic limousines sold at prices that ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \* per limousine under the imported Canadian limousine prices.

Five of six comparisons of \* \* \*'s quarterly prices of Model 1 limousines sold to dealers/distributors indicated underselling. The imported \* \* \* prices were below the \* \* \* prices by margins that ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \*. The single quarter that showed the \* \* \* price above the \* \* \* price revealed a margin of \* \* \* percent, or \$\* \* \*, in favor of the domestic limousine.

Two comparisons of \* \* \* and \* \* \* prices were possible for Model 1 sales to livery limousine rental operators. Both were in \* \* \* and showed underselling by the Canadian limousines. The margins of underselling ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \* (table 20).

Table 20

Limousines: Margins of under/overselling, based on comparisons of net f.o.b. selling prices for Model 1 domestic limousines and limousines imported from Canada sold to limousine rental firms, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

Two selling prices for limousines sold by \* \* \* to this class of purchaser, also in \* \* \*, were compared to \* \* \* selling prices. Again, the Canadian prices were below the domestic limousine prices. The margins of underselling ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \*. A single quarterly price comparison of \* \* \* Model 1 sold to a rental limousine firm and the \* \* \* selling price revealed a margin of underselling by \* \* \* of \* \* \* percent, or \$\* \* \*.

Two quarterly \* \* \* price comparisons of \* \* \* Model 1 limousines sold to rental companies were possible. Both reflected underselling by the imported cars. The margins were \* \* \* and \* \* \* percent, or \$\* \* \* and \$\* \* \*, respectively.

Selling prices of custom Model 3 limousines sold to dealers/distributors by \* \* \* compared to \* \* \*'s selling prices for that model sold to the same class of purchasers were possible for 6 quarters. Each comparison revealed that the \* \* \* limousine was sold at a price lower than the domestic limousine. The margins of underselling ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \* (table 21).

Table 21

Limousines: Margins of underselling, based on comparisons of net f.o.b. selling prices of Model 3 domestic limousines and limousines imported from Canada sold to dealers and distributors, by companies and by quarters, January 1987-June 1989

\* \* \* \* \*

Seven quarterly price comparisons of this model sold by \* \* \* with \* \* \* selling prices were possible. All revealed underselling by \* \* \*. The margins ranged from \* \* \* to \* \* \* percent, or from \$\* \* \* to \$\* \* \*.

Lost revenue

\* \* \* listed \* \* \* sales for a total of \* \* \* limousines sold to \* \* \* different purchasers in which \* \* \* in each instance allegedly lost revenue by reducing the initial offer price to make the sale in the face of price competition from imported limousines from Canada. The total initial-offer sales volume represented by these alleged sales of \* \* \* limousines was \$\* \* \* compared to the actual sales volume of \$\* \* \* based on the accepted price quotes.

\*\*\* named \*\*\*, a limousine leasing company located in \*\*, in \*\*\* different transactions that involved sales of \*\*\* limousines, \*\*. In \*\*, \*\*\* quoted an initial price of \$\$\$ for a \*\*\* limousine but allegedly reduced the offer price to \$\$\$ to make the sale because of competition at this price level from \*\*\* limousines imported from Canada. In \*\*, \*\*\* sold \*\*\* of the same model limousines to \*\*\* after allegedly reducing the initial price of \$\$\$ for the \*\*\* limousines to \$\$\$, again because of a \$\$\$ price for a competing imported \*\*\* model. \*\*\* purchased a \*\*\* limousine from \*\*\* in \*\* after the initial price quoted was reduced from \$\$\$ to \$\$\$, allegedly because of the lower price of \$\$\$ for a competing \*\*\* imported model from Canada. \*\*\* sold \*\*\* another \*\*\* limousine in \*\*. To close the deal, \*\*\* allegedly reduced the initial quote of \$\$\$ to \$\$\$, again to compete with the lower price of \$\$\$ for a \*\*\* limousine imported from Canada.

\*\*\*, an executive of \*\*\*, responded to the Commission staff inquiry. He confirmed the purchases and prices as alleged, except for one correction. He recalled that the price of the \*\*\* limousine purchased in \*\* was \$\$\$, not \$\*. \*\*\* stated that although there are a number of alternative limousine sources available, \*\*\* has been associated with \*\* for roughly \*\* years. Service and availability are key factors that have been adequately met by \*\*. \*\*\* has confidence in \*\* and values the fact that its source is "near at hand." The price, \*\*\* emphasized, must be competitive with "the market." \*\*\* explained that he keeps in touch with market price through approaches by other coachbuilders and was aware of the lower prices of \*\*\* limousines imported from Canada through these approaches and by talking with other fleet operators. \*\*\* did not know whether the initial prices quoted by \*\* were list prices. He noted that the negotiated prices were equal to or a bit higher than competing prices for the imported limousines, but said that the service, dependability, and geographic proximity of \*\*\* warranted any slight price difference.

\*\*\* identified \*\*\* in another example of lost revenue. \*\*\* purchased \*\*\* limousines from \*\*\* in \*\* after reducing an initial price quote of \$\$\$ for the \*\*\* limousines to \$\$\$ to meet price competition from \*\*\* limousines imported from Canada and offered at a price of \$\$\$ less per limousine, or \$\$\$ for the package. \*\*\*, principal in the \*\*\* company, confirmed that the purchase was made at the alleged price. \*\*\* stated that he did not take the first offer price by \*\*. Although he did not actually have a quote from \*\*, \*\*\* said he did know of \*\*'s limousine availability in the area at lower prices. \*\*\* said that local service was a major factor in the purchase decision and was worth a minor, but not a major, concession on price.

\*\*\* cited \*\*\* in another instance of alleged lost revenue in \*\*. This firm allegedly purchased a \*\*\* limousine after \*\*\* reduced its initial quote from \$\$\$ to \$\$\$ to compete with a price of \$\$\$ for a competing \*\*\* model imported from Canada. \*\*\*, principal of the livery operation, was uncooperative. He admitted, in an indirect way, the purchase of a limousine from \*\* but would not provide any details. He said that he would "look at" a written request from the Commission but would provide "nothing to the government over the phone."

Another livery operator named by \*\* was \*\*. \*\*\* allegedly purchased a \*\*\* limousine in \*\* after \*\*\* reduced its initial quote of \$\$\$ to \$\$\$ to compete with a lower price for an imported \*\*\*

limousine. \* \* \*, owner of the livery company, confirmed the purchase at the alleged reduced price. \* \* \* emphasized that he is a hard negotiator on price and on after-purchase service. He has bought \* \* \* limousines; the last purchase from \* \* \* was in \* \* \* at a price of \$\* \* \*. He strongly stated that the \* \* \* limousine is a much cheaper car in price, but that it is poorer quality. Asked for details on the quality comment, he noted that \* \* \*. \* \* \*. As for the \* \* \* limousine he purchased, he paid \$\* \* \* more for it than the price for a competing \* \* \* limousine and "expected the \* \* \* limousine to be better." He complained that he had "\* \* \* trouble . . . getting the bugs out of it." \* \* \*. \* \* \* does not find top quality in any of the limousines he buys, domestic or imported, \* \* \*.

In the \* \* \* volume transaction involving alleged lost revenue, \* \* \* named \* \* \*, another livery firm, as the purchaser in an order for \* \* \* limousines in \* \* \*. \* \* \* allegedly rejected \* \* \*'s initial quote of \$\* \* \* per limousine as not competitive with an offer price of \$\* \* \* for a competing \* \* \* limousine imported from Canada. \* \* \* alleged that it lowered its offer price to \$\* \* \* per limousine and received the order. \* \* \* confirmed the facts and prices as alleged. He noted that, so far, \* \* \* had purchased \* \* \* of the \* \* \* limousines specified, but added that the number of limousines purchased from \* \* \* will ultimately be more than \* \* \*. Confirming the competing \* \* \* price for a "quite comparable" limousine, \* \* \* commented that although the facts were as \* \* \* presented them, he was inflicting injury on \* \* \* by so stating to the Commission. He explained that if \* \* \* wins its case, he will "lose the leverage that caused \* \* \* to reduce its price." \* \* \* added that he had specifically used the \* \* \* price to get the price concession from \* \* \*.

#### Lost sales

\* \* \* provided \* \* \* instances of alleged lost sales involving \* \* \* firms, a total quantity of \* \* \* limousines, and a total potential sales volume of \$\* \* \*. These allegations spanned a period between \* \* \* and \* \* \*. The Commission staff investigated \* \* \* of these allegations.

\* \* \*, a livery limousine rental firm located in \* \* \*, was named by \* \* \* as an example of a lost sale for \* \* \* limousines in \* \* \*. \* \* \* allegedly rejected a quote of \$\* \* \* from \* \* \* in favor of an offer price of \$\* \* \* for \* \* \* limousines. \* \* \* responded to the Commission staff inquiry. He stated that this allegation was substantially accurate but that the actual purchase of \* \* \* limousines from \* \* \* was not until \* \* \*. At the time of the competing offers, \* \* \* said "it was a buyers' market." Quite a few domestic firms were seeking \* \* \*'s business. \* \* \* was looking for as "affordable" a limousine as possible among competing limousines of comparable quality. \* \* \* commented that the competing offer prices were "considerably less than the \* \* \* price" that \* \* \* had paid for domestic limousines. According to \* \* \*, the \* \* \* limousine had "exactly" the same features and equipment as the \* \* \* model. \* \* \* said he thought of the similarity of competing coachbuilders' limousines as like the "designer jeans market," every one trying to copy and make their models look like their competitors' limousines. The purchase of the \* \* \* limousines was through the \* \* \*, which has been very accommodating.

\*\*\* identified \*\*\* in an instance of a lost sale for \*\*\* limousines, \*\*\*, in \*\*\*. \*\*\*'s offer price of \$\*\*\* was allegedly rejected in favor of a price of \$\*\*\* for \*\*\* limousines. \*\*\*.

\*\*\* was named in another instance of an alleged lost sale for a \*\*\* limousine in \*\*\*. The price of \$\*\*\* quoted by \*\*\* was rejected and a competing price of \$\*\*\* was allegedly accepted for a \*\*\* limousine. \*\*\*, owner of the company, provided facts concerning his company's purchase of \*\*\*. The purchase occurred in \*\*\*. The price for the \*\*\* limousine "booked out at \$\*\*\*" he said. Competing domestic models were priced at \$\*\*\* and up. All of the competing firms were discounting from list, as much as \$\*\*\*. \*\*\* said \*\*\*, \*\*\*, and several other domestic coachbuilders were in the picture. \*\*\*.

\*\*\* named a \*\*\* limousine rental firm, \*\*\*, in another instance of an alleged lost sale in \*\*\*. The \*\*\* price of \$\*\*\* for a \*\*\* limousine was rejected allegedly in favor of a lower price for a \*\*\* limousine. \*\*\*.

\*\*\* was identified as the alleged purchaser of a \*\*\* limousine in \*\*\*. \*\*\*'s quote of \$\*\*\* was rejected and the \*\*\* price of \$\*\*\* was accepted. \*\*\* responded to the staff inquiry. Yes, he said, he did buy a \*\*\* limousine in \*\*\*. He explained that the price of the \*\*\* limousine was lower, but there was a difference in the interior paneling of the \*\*\* limousine compared to the competing \*\*\* limousine. The \*\*\* limousine had a "\*\*\* interior" compared to a \*\*\* interior in the \*\*\*. This would have cost more and \*\*\* did not want to spend that much more. \*\*\* is checking his record to ascertain the specific price paid for the \*\*\* model, which was purchased from a local \*\*\* outlet, \*\*\*.

In another example of an alleged lost sale in \*\*\*, \*\*\* identified \*\*\* as the purchaser. \*\*\* quoted a price of \$\*\*\* for a \*\*\* limousine but allegedly lost the sale to \*\*\*, whose offer price was \$\*\*\*. \*\*\* responded to the staff inquiry. \*\*\* explained that their firm did not buy a \*\*\* limousine. \*\*\*.

\*\*\*.

\*\*\*.--The petitioner and other domestic coachbuilders have called attention to a transaction between \*\*\* and \*\*\*.<sup>71</sup> \*\*\*.

\* \* \* \* \*

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1986-December 1988 the nominal value of the Canadian dollar appreciated 16.4 percent relative to the U.S. dollar (table 22).<sup>72</sup> Adjusted for movements in producer price indices in the United States and Canada, the

<sup>71</sup> \*\*\*.

<sup>72</sup> International Financial Statistics, June 1989.

Table 22

U.S.-Canadian exchange rates: 1/ Nominal exchange rates of the Canadian dollar in U.S. dollars, real exchange-rate equivalents, and producer price indicators in the United States and Canada, 2/ indexed by quarters, January 1986-March 1989

Period	U.S. Producer Price Index	Canadian producer price index	Nominal exchange- rate index ----U.S.\$/Can\$----	Real exchange- rate index <sup>3/</sup>
1986:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	98.2	98.5	101.4	101.8
July-September....	97.7	98.7	101.3	102.4
October-December..	98.1	99.4	101.4	102.8
1987:				
January-March.....	99.2	99.8	104.9	105.6
April-June.....	100.8	101.1	105.3	105.6
July-September....	101.9	102.6	106.2	106.8
October-December..	102.3	103.6	107.1	108.4
1988:				
January-March.....	102.9	103.9	110.8	111.8
April-June.....	104.8	105.2	114.1	114.6
July-September....	106.2	106.3	115.1	115.2
October-December..	106.7	107.2	116.4	116.9
1989:				
January-March.....	109.0	4/	117.8	4/

1/ Exchange rates expressed in U.S. dollars per Canadian dollar.

2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indices presented in line 63 of the International Financial Statistics.

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for relative movements in Producer Price Indices in the United States and Canada. Producer prices in the United States increased 6.7 percent during the period January 1986 through December 1988 compared with a 7.2-percent increase in Canadian prices during the same period.

4/ Not available.

Note.--January-March 1986=100.0.

Source: International Monetary Fund, International Financial Statistics, June 1989.

real value of the Canadian currency appreciated 16.9 percent during the same period.



APPENDIX A  
FEDERAL REGISTER NOTICES

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**[Investigations Nos. 701-TA-300  
(Preliminary) and 731-TA-438 (Preliminary)]**

**Limousines From Canada**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary countervailing duty and antidumping investigations Nos. 701-TA-300 (Preliminary) and 731-TA-438 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of limousines.<sup>1</sup>

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<sup>1</sup> For purposes of these investigations, limousines are defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered).

provided for in subheadings 8703.23.00, 8703.24.00, and 9802.00.50 of the Harmonized Tariff Schedule of the United States (previously under items 692.10 and 806.20 of the Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Canada and to be sold in the United States at less than fair value. As provided in sections 703(a) and 733(a), the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by September 7, 1989.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), as amended by 53 FR 33034 (August 29, 1988) and 54 FR 5220 (February 2, 1989), and part 201, subparts A through E (19 CFR Part 201), as amended by 54 FR 13672 (April 5, 1989).

**EFFECTIVE DATE:** July 24, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mary Trimble (202-252-1193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

**SUPPLEMENTARY INFORMATION:**

**Background.** These investigations are being instituted in response to a petition filed on July 24, 1989, by Southampton Coachworks, Ltd., Farmingdale, NY.

**Participation in the investigation.** Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

**Service list.** Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and

207.3 of the rules (19 CFR 201.16(c) and 207.3), as amended by 53 FR 33039 (August 29, 1988) and 54 FR 5220 (February 2, 1989), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Limited disclosure of business proprietary information under a protective order.** Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), as amended by 53 FR 33039 (August 29, 1988) and 54 FR 5220 (February 2, 1989), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

**Conference.** The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 15, 1989 at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Trimble (202-252-1193) not later than August 11, 1989, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

**Written submissions.** Any person may submit to the Commission on or before August 17, 1989, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during

regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of sections 201.8 and 207.7 of the Commission's rules (19 CFR 201.8 and 207.7), as amended by 54 FR 13672 (April 5, 1989) and 53 FR 33034 (August 29, 1988) and 54 FR 5220 (February 2, 1989).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), as amended by 53 FR 33034 (August 29, 1988) and 54 FR 5220 (February 2, 1989), may comment on such information in their written brief, and may also file additional written comments on such information no later than August 21, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: July 25, 1989.

Kenneth R. Mason,  
Secretary.

[FR Doc. 89-18042 Filed 8-1-89; 8:45 am]

BILLING CODE 7020-02-M

preliminary determination on or before January 2, 1990.

**EFFECTIVE DATE:** August 22, 1989.

**FOR FURTHER INFORMATION CONTACT:** Michael Ready or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2613 or (202) 377-1769, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On July 24, 1989, we received a petition filed in proper form by Southampton Coachworks, Ltd. In compliance with the filing requirements of § 353.12 of the Department's revised regulations (54 FR 12772, March 28, 1989) (to be codified at 19 CFR 353.12), petitioner alleges that imports of limousines from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, the U.S. industry. Petitioner also alleges that critical circumstances exist with respect to this merchandise.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), (F), or (G) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in section 353.14 of the Department's regulations.

**United States Price and Foreign Market Value**

Petitioner based United States Price (USP) for limousines on a price list for U.S. distributors of limousines from Canada. Petitioner's Foreign Market Value (FMV) for limousines is based on a price list for Canadian distributors of

(A-122-808)

**Initiation of Antidumping Duty Investigation: Limousines From Canada**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the U.S. Department of Commerce (the "Department"), we are initiating an antidumping duty investigation to determine whether imports of limousines from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of limousines from Canada materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 7, 1989. If that determination is affirmative, we will make a

limousines. The margins put forth by petitioner range from 19.36 percent to 24.35 percent. Petitioner adjusted upward the USP to include delivery cost because the price list for Canadian distributors included the cost of delivery while the price list for U.S. distributors did not. However, because it is the Department's practice to use ex-factory prices in its fair value comparisons, we recalculated the margins to range from 21.14 percent to 25.20 percent.

#### Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on limousines from Canada and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of limousines from Canada are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by January 2, 1990.

#### Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

The products covered by this investigation are limousines, which are defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline

engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services. Limousines are currently provided for under the following HTS subheadings: 8703.23.00.75, 8703.24.00.75 and 9802.00.50.40. Prior to January 1, 1989, limousines were classifiable under items 806.2040, 692.1015 and 692.1030 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

#### Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

#### Preliminary Determination by ITC

The ITC will determine by September 7, 1989, whether there is a reasonable indication that imports of limousines from Canada materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to the statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: August 14, 1989.

Lisa B. Barry,  
Acting Assistant Secretary for Import  
Administration.

[FR Doc. 89-18637 Filed 8-21-89; 8:45 am]  
BILLING CODE 3510-DS-M

[C-122-809]

#### Initiation of Countervailing Duty Investigation; Limousines From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers or exporters in Canada of limousines, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of limousines from Canada materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, we will make our preliminary determination on or before October 17, 1989.

**EFFECTIVE DATE:** August 22, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kay Halpern or Roy Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0192 and (202) 377-5414.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On July 24, 1989, we received a petition in proper form from Southampton Coachworks, Ltd., of Farmingdale, New York. This petition is filed on behalf of the U.S. industry producing limousines. In compliance with the filing requirements of section 355.12 of the Commerce Regulations (19 CFR 355.12), the petition alleges that producers and exporters of limousines in Canada receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, the U.S. industry.

Petitioner has alleged that it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of the U.S. industry producing the products that are subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the

Commerce officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

#### Initiation of Investigation

Under section 702(c) of the Act, we must make the determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on limousines from Canada and have found that most of the programs alleged in the petition meet these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Canadian producers or exporters of limousines, as described in the "Scope of Investigation" section of this notice, receive subsidies. However, we are not initiating an investigation for certain programs because the petition failed to allege the elements necessary for the imposition of a duty or in some instances failed to provide the necessary supporting information. If our investigation proceeds normally, we will make our preliminary determination on or before October 17, 1989.

#### Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s). The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

The product covered by this investigation is limousines, which are defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles

are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services. Limousines are currently provided for under the following HTS subheadings: 8703.23.00.75, 8703.24.00.75 and 9802.00.50.40. Prior to January 1, 1989, limousines were classifiable under items 806.2040, 692.1015 and 692.1030 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

#### Allegations of Subsidies

Petitioner lists a number of practices by the Government of Canada and the provincial governments of Ontario and Quebec which allegedly confer subsidies on producers or exporters of limousines. We are initiating an investigation of the following programs:

- Investment Tax Credits (ITCs) over and above the basic rate of seven percent
- Regional Development Incentive Program (RDIP) and Industrial and Regional Development Program (IRDP)
- Loans under the Enterprise Development Program (EDP)
- Promotional Projects Program (PPP)
- Program for Export Market Development (PEMD)

We are not initiating an investigation of the programs listed below. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. All the programs listed below were alleged to confer domestic subsidies. The elements which must be alleged for a domestic subsidy program are (1) specificity (*i.e.*, the program is limited to a specific enterprise or industry or group of enterprises or industries), and (2) provision of a countervailable benefit (*i.e.*, a subsidy paid or bestowed directly or indirectly on the manufacturer, producer or exporter of any class or kind of merchandise). For upstream subsidies, the initiation threshold is higher. Under section 701(e) of the Act, the Department must have reasonable grounds to believe or suspect that an upstream

subsidy, as defined in section 771A of the Act, is being paid or bestowed upon merchandise under investigation. For the programs listed below, the requirements of section 702(b) or 701(e) of the Act were not fulfilled in the petition.

#### 1. Provision of Subsidized Electric Energy by Hydro-Quebec

Petitioner alleges that a countervailable benefit is conferred on Canadian Limousine Manufacturers in the form of low-cost electric energy. Specifically, petitioner alleges that Hydro-Quebec, a provincially-owned power company, is being subsidized and that the subsidy passes through the limousine manufacturer's supplier of electricity, Ontario Hydro, to limousine manufacturers. Under section 701(e) of the Act, whenever the Department has reasonable grounds to believe or suspect that an upstream subsidy is being paid or bestowed, the Department must investigate whether an upstream subsidy has in fact been paid or bestowed. The provisions of section 771A(a) of the Act define an upstream subsidy as:

Any subsidy described in section 771(5)(B)(i), (ii), (iii), or (iv) by the government of a country that—(1) is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding; (2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and (3) has a significant effect on the cost of manufacturing or producing the merchandise.

Because petitioner has not made a formal upstream subsidy allegation covering each of the elements listed above, we are not initiating on this program.

#### 2. Other Investment Tax Credits

Petitioner alleges that a variety of investment tax credits provide a benefit to producers or exporters of limousines in Canada. As noted above, we are initiating an investigation on additional tax credits over and above the basic rate of seven percent, which are tied to certain regions of Canada. However, we are not initiating an investigation on the basic rate for investment in "qualified property," "certified property," and transportation and construction equipment. Petitioner argues that we must make a determination of whether the basic rate is limited to specific industries on a *de facto* basis. In *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041,

March 24, 1988) (*Groundfish*), we determined that the basic rate of seven percent is not countervailable because it is not limited to a specific enterprise or industry or group of enterprises or industries. Absent the provision of new evidence, or an allegation of changed circumstances, we have no basis upon which to re-initiate an investigation of this type of investment tax credit.

### 3. EDP Loan Guarantees and Grants

Availability of loan guarantees and grants through the Enterprise Development Program was investigated in *Groundfish*. We determined that the provision of loan guarantees and grants under this program was not limited to a specific enterprise or industry or group of enterprises or industries. Absent the provision of new evidence, or an allegation of changed circumstances, we have no basis upon which to re-initiate an investigation of the provision of loan guarantees and grants under this program.

### 4. Federal Expansion and Development/ Northern Ontario (FEDNOR)

FEDNOR is a federal economic development program which provides grants covering up to 35 percent of eligible capital costs. The program is targeted to promote the economy of northern Ontario. Petitioner provided no evidence to show that potential respondents are located in northern Ontario. Therefore, we are not initiating an investigation of this program.

The petitioner has alleged certain other subsidies. However, these allegations were not submitted in proper form. If allegations in proper form are submitted in the future, we will consider whether or not to include them in our investigation.

### Allegation of Critical Circumstances

Petitioner alleges that critical circumstances exist with respect to imports of limousines from Canada. Petitioner claims that the products concerned benefit from export subsidies that are inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, and that imports have been massive over a relatively short period. We will determine whether critical circumstances exist with respect to these imports in our preliminary and final determinations.

### Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will

notify the ITC and make available to it all non-privileged and non-proprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information, either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

### Preliminary Determination by ITC

The ITC will determine by September 7, 1989, whether there is a reasonable indication that imports of limousines materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, this investigation will continue according to the statutory procedures. This notice is published pursuant to section 702(c)(2) of the Act.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-19638 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-08-M

APPENDIX B  
LIST OF WITNESSES

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LIST OF PARTICIPANTS IN THE PUBLIC CONFERENCE

Investigations Nos. 701-TA-300 (Preliminary) and 731-TA-438 (Preliminary)

LIMOUSINES FROM CANADA

Those listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigations on August 15, 1989, in Hearing Room 101 of the USITC Building, 500 E Street, SW, Washington, DC.

In support of the imposition of countervailing and antidumping duties

John H. Gore, President, Southampton Coachworks, Ltd.  
Pete Corelli, President, Lakeview Custom Coach, and shareholder, Corporate Coachworks Corp.  
Neal Friedkin, Attorney, Dillinger/Gaines Coachworks, Ltd.

In opposition to the imposition of countervailing and antidumping duties

Dorsey & Whitney--Counsel  
Washington, DC  
on behalf of--

A.H.A. Manufacturing, Ltd.

Melvyn A. Stein, President, A.H.A. Automotive Technologies Corp.  
Alan S. Hays II, President, Economic Data Analysis

James Taylor, Jr. )  
Philippe M. Bruno )--OF COUNSEL  
L. Daniel Mullaney)



APPENDIX C

INTERFERENCE IN THE COMMISSION'S INVESTIGATIONS



Interference in the Commission's Investigations

The events pertaining to Mr. Robert Hensley, U.S. Fleet and Dealer Development Manager for A.H.A., and the contacts that were made in relation to these investigations are as presented below.

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APPENDIX D

IMPACT OF IMPORTS ON U.S. PRODUCERS' GROWTH, INVESTMENT, DEVELOPMENT  
AND PRODUCTION EFFORTS, AND ABILITY TO RAISE CAPITAL



The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of limousines from Canada on their firms' growth, investment, development and production efforts, and ability to raise capital. Their responses are shown below:

Actual negative effects

\* \* \* \* \*

Anticipated negative effects

\* \* \* \* \*

